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PART I



## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.


OIL AND GAS—Interior Department invites comment on potential leasing of Outer Continental Shelf Resources; comments by 5–1–74 ..... 6541

U.S. SECURITIES MARKETS—SEC invites public comment on issues concerning foreign access ..... 6557

PHASE IV PAY REGULATIONS—CLC adjusts income of food industry empoyees; effective 1–11–73 ..... 6528

THERMAL INSULATION—HUD revises minimum property standards; comments by 3–12–74 ..... 6544

SOCIAL SECURITY—HEW proposal defining creditability of wages; comments by 3–22–74 ..... 6536

SERVICES AND ACTIVITIES—FHLBB proposal clarifying role of multiple savings and loan holding companies; comments by 3–22–74 ..... 6538

PHASE IV PRICE REGULATIONS—CLC exempts ferrous and ferroalloy scrap; effective 2–15–74 ..... 6528
CLC exempts nonrubber footwear; effective 2–15–74 .. 6529

ENERGY—FEO establishes adjustment factor for kerosene-base jet fuel ..... 6575
FEO permits retail gasoline dealers and refiners to to increase prices ..... 6533
FEO clarifies nature of refinery yield control program . 6533

MEETINGS—
HEW: National Heart and Lung Institute Workshop, 3–4 and 3–5–74 ..... 6543
Task Force on the Assessment of Automated Blood Pressure Measuring Devices, 4–26–74 ..... 6543


(Continued inside)

### PART II:


EFFLUENT LIMITATIONS—EPA publishes standards for phosphate manufacturing point source category; effective 4–22–74 ..... 6579
EPA proposes guidelines for incompatible pollutants of phosphate manufacturing point source category; comments by 3–22–74 ..... 6586


### PART III:


EFFLUENT LIMITATIONS—EPA publishes standards for cement manufacturing point source category; effective 4–22–74 ..... 6589
EPA proposes guidelines concerning incompatible pollutants for cement manufacturing point source category; comments by 3–22–74 ..... 6590


February 20, 1974—Pages 6507–6596

## HIGHLIGHTS—Continued


Consumer Advisory Council to the Office of Consumer Affairs, 2–21 and 2–22–74 ..... 6544
Interior Department: Chesapeake and Ohio Canal National Historical Park Commission, 2–23–74 ..... 6542
FCC: Panel 7–CTAC Committee, 2–20–74 ..... 6555
National Science Foundation: Advisory Panel for History and Philosophy of Science, 3–8 and 3–9–74 ..... 6565
Civil Rights Commission: State Advisory Committees:
Maine, 2–26–74 ..... 6553
Nevada, 2–26–74 ..... 6553
New Jersey (2 documents), 2–21 and 2–22–74 ..... 6553
New Hampshire (2 documents), 3–4, 3–7 and 3–8–74 ..... 6553
New York, 2–19–74 ..... 6554
North Carolina, 2–22–74 ..... 6554
Rhode Island, 2–20–74 ..... 6554
AEC: Advisory Committees on Reactor Safeguards:
Subcommittee on Babcock & Wilcox Water Reactors, 3–5 and 3–6–74 ..... 6548
Subcommittee on the North Anna Power Station, 3–5–74 ..... 6548
Commerce Department: Census Advisory Committee on Privacy and Confidentiality, 2–25–74 ..... 6543
Labor Department: Federal Safety Advisory Council, 2–28–74 ..... 6571



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# Contents


AGRICULTURAL MARKETING SERVICE

Rules and Regulations

Milk in Quad Cities-Dubuque marketing area; findings and determinations ---------- 6515

Proposed Rules

Fresh prunes grown in Washington and Oregon; hearing on amendment of marketing agreement and order---------- 6535

Milk in Middle Atlantic and New Jersey marketing areas; hearing on proposed amendments to tentative marketing agreements and orders---------- 6535

AGRICULTURE DEPARTMENT

*See also* Agricultural Marketing Service; Commodity Credit Corporation; Forest Service; Rural Electrification Administration.

Notices

Order vacating designations as contract market:
New Orleans Cotton Exchange_ 6543
Wool Associates of the New York Cotton Exchange, Inc__ 6543

ASSISTANT SECRETARY FOR HEALTH OFFICE

Notices

Charles Heidelberger; proposed issuance of exclusive license___ 6543

ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT OFFICE

Notices

Thermal insulation requirements; policy statement---------- 6544

ATOMIC ENERGY COMMISSION

Notices

Consolidated Edison Company of New York, Inc.; issuance of amendment to facility operating license---------- 6549

Meetings of the Advisory Committee on Reactor Safeguards Subcommittee:
Babcock & Wilcox Water Reactors ---------- 6548
North Anna Power Station---- 6548

Uranium Enrichment Services Agreements; execution-------- 6549

CIVIL AERONAUTICS BOARD

Notices

*Hearings, etc.:*
American Airlines, Inc-------- 6550
Hughes Air Corp. and Hughes Airwest ---------- 6552
Service to Saipan Case-------- 6553

CIVIL RIGHTS COMMISSION

Notices

Agenda and open meeting of the State Advisory Committees:
Maine ---------- 6553
Nevada ---------- 6553
New Hampshire (2 documents)_ 6553
New Jersey (2 documents)_ 6553, 6554
New York---------- 6554
North Carolina---------- 6554
Rhode Island---------- 6554

CIVIL SERVICE COMMISSION

Rules and Regulations

Adverse actions by agencies; correction ---------- 6515

COMMERCE DEPARTMENT

*See* Social and Economic Statistics Administration.

COMMODITY CREDIT CORPORATION

Proposed Rules

Dry edible beans; proposed loan and purchase determinations for 1974 crop---------- 6535

COST OF LIVING COUNCIL

Rules and Regulations

Employees in the food industry; pay adjustments---------- 6528

Ferrous scrap and ferroalloy scrap exemption ---------- 6528

Nonrubber footwear exemption___ 6529

CUSTOMS SERVICE

Rules and Regulations

Tomato products from Greece; countervailing duties --------- 6516

EDUCATION OFFICE

Notices

Grants to State and local educational agencies; closing date for receipt of applications; correction ---------- 6544

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations

Certain inert ingredients in pesticide formulations; correction_ 6518

Effluent limitations guidelines and standards of performance; point source categories:
Cement manufacturing-------- 6590
Phosphate manufacturing----- 6586

Proposed Rules

Pretreatment standards for incompatible pollutants; cement and phosphate manufacturing point source categories (2 documents) ---------- 6580, 6586

Notices

Pesticides registration; receipt of and data to be considered in support of applications-------- 6554

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Canadair Aircraft; airworthiness directive ---------- 6516

Emergency locator transmitters; general operating and flight rules ---------- 6516

Proposed Rules

Terminal control areas; speed limitations ---------- 6538

VOR Federal airways:
Alteration ---------- 6537
Designation ---------- 6538

FEDERAL COMMUNICATIONS COMMISSION

Notices

Panel 7—C TAC Committee; meeting ---------- 6555

FEDERAL ENERGY OFFICE

Rules and Regulations

Fuel allocation and pricing; miscellaneous amendments-------- 6530

Gasoline prices; non-product costs ---------- 6530

Refinery yield control program; revision ---------- 6532

Notices

Crude oil allocation; correction___ 6575

Establishment of adjustment factor for kero-jet fuels---------- 6575

FEDERAL HIGHWAY ADMINISTRATION

Notices

Wyoming; proposed Action Plan__ 6547

FEDERAL HOME LOAN BANK BOARD

Proposed Rules

Savings and loan holding companies; allowable services and activities ---------- 6538

FEDERAL INSURANCE ADMINISTRATION

Rules and Regulations

Area eligibility for insurance; status of participating communities ---------- 6517

FEDERAL POWER COMMISSION

Notices

*Hearings, etc.:*
Chevron Oil Co., et al---------- 6555
Cities Service Gas Co---------- 6556
El Paso Natural Gas Co-------- 6556
Iowa-Illinois Gas and Electric Co ---------- 6558
Northern Natural Gas Co----- 6558
Shelly Oil Co. et al---------- 6559
Texas Oil & Gas Corp. et al----- 6561
United Gas Pipe Line Co------- 6562


(*Continued on next page*)

FEDERAL RAILROAD ADMINISTRATION

Notices

Louisiana Southern Railway Co.; petition for exemption from hours of Service Act 6547

FEDERAL RESERVE SYSTEM

Notices

Acquisition of banks:
American Bancorporation 6562
Southeast Banking Corp 6563
Texas Commerce Bancshares, Inc. (2 documents) 6563
Formation of bank holding companies:
Farmers and Merchants Bancshares, Inc 6562
First Hawaiian, Inc 6563
First Melville Bancorp, Inc 6563

FISH AND WILDLIFE SERVICE

Rules and Regulations

Public access, use and recreation:
Amagansett National Wildlife Refuge, NY 6526
Brigantine National Wildlife Refuge, NJ 6526
Mackay Island National Wildlife Refuge, NC and Va 6528
Sport fishing:
Brigantine National Wildlife Refuge, NJ 6527
Choctaw National Wildlife Refuge, Ala 6527
Prime Hook National Wildlife Refuge, Dela 6528

FOREST SERVICE

Notices

Beartooth Wilderness, Absaroka Wilderness, and Cut-Off Mountain Wilderness Proposal; public hearing 6542
Suppression Strategy for Control of Southern Pine Beetle in the Southeastern United States; availability of draft environmental statement 6543

GENERAL SERVICES ADMINISTRATION

Notices

Energy conservation; federally occupied buildings and facilities 6563

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

*See also* Assistant Secretary for Health Office; National Institutes of Health; Social Security Administration.

Notices

Child and Family Development Research Review Committee; reestablishment 6544
Consumer Advisory Council; public meeting 6544

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

*See* Assistant Secretary for Housing Production and Mortgage Credit Office; Federal Insurance Administration.

INTERIOR DEPARTMENT

*See* Fish and Wildlife Service; Land Management Bureau; National Park Service.

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Adjustment of compensation; equipment leased by motor carriers of property since rising fuel costs 6519

Notices

Assignments of hearings 6571
Motor Carrier Board transfer proceedings 6571
Motor carrier temporary authority applications 6572
Northeastern Railroad investigation review; notice of public hearing 6575
Raymond R. Manion; statement of changes in financial interests 6574

LABOR DEPARTMENT

Notices

All Items Consumer Price Index; U.S. city average 6571
Federal Safety Advisory Council; meeting 6571

LAND MANAGEMENT BUREAU

Rules and Regulations

Partial revocation of reclamation project withdrawal; Oregon 6519
Powersite restorations and partial revocations of powersite reserves:
Idaho 6518
Utah 6519
Revocations and withdrawal of national forest and two administrative sites; Arizona 6518

Notices

Potential future Outer Continental Shelf oil and gas leasing; request for comments 6541
Wyoming; opening land to small tract application 6542

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Proposals

School bus bodies; extension of comment period 6538

NATIONAL INSTITUTES OF HEALTH

Notices

National Heart and Lung Institute; workshop 6543
Task Force on Assessment of Automated Blood Pressure Measuring Devices; meeting 6543

NATIONAL PARK SERVICE

Notices

Chesapeake and Ohio Canal National Historical Park Commission; meeting 6542

NATIONAL SCIENCE FOUNDATION

Notices

Advisory Panel for History and Philosophy of Science; meeting 6565

RURAL ELECTRIFICATION ADMINISTRATION

Proposed Rules

Telephone facilities; proposed revision in specification for cable for aerial and underground duct applications 6536

SECURITIES AND EXCHANGE COMMISSION

Notices

*Hearings, etc.:*
Arboreal Associates, Inc 6565
Columbia Gas System, Inc 6565
Locating Devices, Inc 6566
Park Fund, Inc 6567
Petroleum Investment Capital Corp 6567
United States Securities Markets; inquiry on issues concerning foreign access 6567

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Notices

Census Advisory Committee on Privacy and Confidentiality; public meeting 6543

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Federal old-age, survivors and disability insurance; creditability of wages 6536

TARIFF COMMISSION

Notices

Picker sticks from Mexico; investigation and hearing 6571

TRANSPORTATION DEPARTMENT

*See* Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

*See* Customs Service.

# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

July 2, 1910 (revoked in part by PLO 5414) ..... 6519
Oct. 22, 1912 (revoked in part by PLO 5412) ..... 6518
May 27, 1913 (revoked in part by PLO 5412) ..... 6518
10355 (revoked in part by PLO 5413 ..... 6518

PROCLAMATIONS:

May 22, 1908 (revoked in part by PLO 5413) ..... 6518
May 10, 1916 (revoked in part by PLO 5413) ..... 6518

5 CFR

752 ..... 6515

6 CFR

150 (2 documents) ..... 6528, 6529
152 (2 documents) ..... 6528, 6529

7 CFR

1063 ..... 6515

PROPOSED RULES:

924 ..... 6535
1002 ..... 6535
1004 ..... 6535
1421 ..... 6535
1701 ..... 6536

10 CFR

205 ..... 6530
210 ..... 6531
211 (2 documents) ..... 6531, 6533
212 (2 documents) ..... 6532, 6533

12 CFR

PROPOSED RULES:

584 ..... 6538

14 CFR

39 ..... 6516
91 ..... 6516

PROPOSED RULES:

71 (2 documents) ..... 6537
91 ..... 6538

19 CFR

16 ..... 6516

20 CFR

PROPOSED RULES:

404 ..... 6536

24 CFR

1914 ..... 6517

40 CFR

180 ..... 6518
411 ..... 6590
422 ..... 6580

PROPOSED RULES:

411 ..... 6598
422 ..... 6586

43 CFR

PUBLIC LAND ORDERS:

5412 ..... 6518
5413 ..... 6518
5414 ..... 6519
5415 ..... 6519

49 CFR

1057 ..... 6519

PROPOSED RULES:

571 ..... 6538

50 CFR

28 (3 documents) ..... 6526, 6528
33 (3 documents) ..... 6527–6528

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

## Rules Going into Effect Today

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

## Next Week's Meetings

page no. and date

FEBRUARY 24

HEW—National Advisory Council on Indian Education to be held at Washington, D.C. 5526; 2–13–74

FEBRUARY 25

Interior Department—Bonneville Power Administration to be held at Lyons, Oregon (open) 2113; 1–17–74

Labor Department—Advisory Council on Employee Welfare and Pension Benefit Plans to be held at Washington, D.C. (open) 5375; 2–12–74

NIH—Allergy and Immunology Research Committee to be held at Bethesda, Maryland (open first half hour only). 5523; 2–13–74

National Science Foundation—Energy R and D Advisory Council to be held at Washington, D.C. 5820; 2–15–74

FEBRUARY 26

Commerce Department—Importers Textile Advisory Committee to be held at Washington, D.C. 5809; 2–15–74

DOD—Wage Committee to be held at Washington, D.C. (closed) 2777

HEW—Food and Drug Administration Medical Advisory Committees to be held at Rockville, Maryland (open first two and one-half hours) 5220; 2–11–74

Department of Labor—Business Research Advisory Council's Committee on Occupational Safety and Health Statistics to be held at Washington, D.C. 5822; 2–15–74

Special Action Office for Drug Abuse Prevention—Advisory Committee on Drug Detection to be held at Washington, D.C. (open) 5671; 2–14–74

State Department—Study Group 7 of the U.S. National Committee for the International Radio Consultive Committee to be held at Greenbelt, Maryland (open) 4122; 2–1–74

FEBRUARY 27

Transportation Department—FAA, Microwave Landing System Advisory Committee to be held at Atlantic City, New Jersey (open) 5813; 2–15–74

AEC—General Advisory Committee to be held at Oak Ridge, Tennessee (closed) 5649; 2–14–74

AEC—Standards Subcommittee of the U.S. Nuclear Data Committee to be held at Gaithersburg, Maryland (open) 5224; 2–11–74

HEW—Food and Drug Administration Medical Advisory Committees to be held at Rockville, Maryland (open first hour) 5220; 2–11–74

NIH—Periodontal Diseases Advisory Committee to be held at Bethesda, Maryland (open) 3307; 1–25–74

FEBRUARY 28

AEC—Advisory Committee on Reactors Safeguards: Subcommittee on Reactor Fuels to be held at Washington, D.C. (open) 5223; 2–11–74

AEC—General Advisory Committee to be held at Oakridge, Tennessee (open first hour only) 5649; 2–14–74

AEC—Standards Subcommittee of the U.S. Nuclear Data Committee to be held at Gaithersburg, Maryland (open) 5224; 2–11–74

Effluent Standards and Water Quality Information Advisory Committee to be held at Arlington, Virginia (open). 5358; 2–12–74

HEW—Tuberculosis Control Advisory Committee to be held at Atlanta, Georgia (open) 4795; 2–7–74

Interior Department—Bonneville Power Administration to be held at Pomeroy, Washington 3576; 1–28–74

Interior Department—Oregon State Multiple Use Advisory Board to be held at Portland, Oregon (open). 4596; 2–5–74

Interior Department—Pictured Rocks National Lakeshore Advisory Commission to be held at Munising, Michigan (open). 5806; 2–15–74

National Science Foundation—Advisory Panel for Social Psychology to be held at Washington, D.C. (closed). 5332; 2–12–74

Transportation Department: FAA, Microwave Landing System Advisory Committee to be held at Atlantic City, New Jersey (open) 5813; 2–15–74

Veterans' Administration—Wage Committee to be held at Washington, D.C. (closed) 33697; 12–6–74

MARCH 1

AEC—Advisory Committee on Reactors Safeguards: Subcommittee on Reactor Fuels to be held at Washington, D.C. (open) 5223; 2–11–74

AEC—General Advisory Committee to be held at Oakridge, Tennessee (open first hour only) 5649; 2–14–74

Agriculture Department—California Region Roads Advisory Committee to be held at San Francisco, California (open) 4792; 2–7–74

National Science Foundation—Advisory Panel for Developmental Biology to be held at Washington, D.C. (closed) 5669; 2–14–74

MARCH 1

National Science Foundation—Advisory Panel for Social Psychology to be held at Washington, D.C. (closed). 5332; 2–12–74

State Department—Secretary of State's Advisory Committee on Private International Law, Study Group on Enforcement of Foreign Judgments to be held at Cambridge, Massachusetts (open) 3644; 2–14–74

MARCH 2

National Science Foundation—Advisory Panel for Developmental Biology to be held at Washington, D.C. (closed). 5669; 2–14–74

MARCH 5

Labor Department—Labor Research Advisory Council's Committee on Industrial Safety to be held at Washington, D.C. (open) 5821; 2–15–74

MARCH 7

National Science Foundation—Advisory Panel for Sociology to be held at Washington, D.C. (closed) 5820; 2–15–74

MARCH 8

National Science Foundation—Advisory Panel for Sociology to be held at Washington, D.C. (closed) 5820; 2–15–74

MARCH 21

USDA—Shoshone National Forest Multiple Use Advisory Committee to be held at Thermopolis, Wyoming (open). 5803; 2–15–74

APRIL 4

VA—Career Development Committee to be held at St. Louis, Missouri (open). 5821; 2–15–74

APRIL 5

VA—Career Development Committee to be held at St. Louis, Missouri (open). 5821; 2–15–74

## Next Week's Hearings

FEBRUARY 26

National Park Service—Wilderness proposal regarding Hawaii Volcanoes National Park, to be held in Kona, Hawaii 33782; 12–7–73

USDA—Packers Engaging in the Activity or Practice of Custom Feeding Livestock; to be held in Des Moines, Iowa 4667; 2–6–74

Delaware River Basin Commission—Interstate Energy Company Petroleum Pipeline; to be held in Kulpsville, Pennsylvania 4805; 2–7–74

FEBRUARY 27

Consumer Product Safety Commission—Cyanoacrylate-based adhesives. 2796; 1–24–74

Consumer Product Safety Commission—Possible substantial product hazard involving electric fry pans. 3850; 1–30–74

USDA—Packers Engaging in the Activity or Practice of Custom Feeding Livestock; to be held in Des Moines, Iowa. 4667; 2–6–74

FEBRUARY 28

USDA—Packers Engaging in the Activity or Practice of Custom Feeding Livestock; to be held in Phoenix, Arizona..... 4667; 2–6–74

Next Week's Deadlines for Comments on Proposed Rules

FEBRUARY 25

FCC—Noncommercial education broadcast stations; extension of time for comments; First published at 38 FR 31456..... 35332; 12–27–73

CG—Life saving devices on unmanned platforms..... 1360; 1–8–74

CG—Releases, Lifesaving Equipment, Hydraulic and Manual.. 1361; 1–8–74

VA—Death gratuity; claims change. 2775; 1–24–74

HEW—Cacao products and confectionery; extension of time.... 38 FR 32554, 11–26–73; 39 FR 4113, 2–1–74

FHLBB—Federal savings and loan system; service corporations..... 2495; 1–22–74

INTERIOR DEPARTMENT—Sport fishing; proposed addition of Dismal Swamp National Wildlife Refuge, Va. 3291; 1–25–74

TREASURY DEPARTMENT—Customhouse brokers or cartage or lighterage license; increasing the customs fees to accompany application..... 3292; 1–25–74

VETERANS ADMINISTRATION—Sickle cell anemia program; voluntary participation..... 3292; 1–25–74

FAA—Foreign air carriers; proposed aviation security program requirements..... 3293; 1–25–74

FEBRUARY 27

FAA—Proposed VOR Federal Airway. 35325; 12–27–73

FAA—Transition Area; Montana. 39 FR 3966; 1–31–74

SBA—Lease guarantee.... 39 FR 3573; 1–28–74

USDA—Food stamp program. 39 FR 3642; 1–28–74

FEBRUARY 28

USDA—Standards for grades of frozen asparagus; extension of time.. 24910, 9–11–73; 1053, 1–4–74

FCC—Private operational-fixed microwave radio service; assignment of frequencies..... 33604; 12–6–73

FCC—FM Broadcast translator stations 1643; 1–11–7

FCC—FM Broadcast Translator Stations; Operations Requirements..... 1867; 1–15–74

AMS—Handling of peaches grown in Utah; proposed termination of marketing agreement and order..... 2368; 1–21–74

Customs Service—Inward foreign manifest..... 39 FR 3682, 1–29–74

EPA—Dairy products processing industry point source category; extension of time..... 39 FR 1454, 1–9–74; 39 FR 4117, 2–1–74

FAA—VOR Federal airways (3 documents).... 39 FR 3686, 3687, 1–29–74

—Restricted area..... 39 FR 3687, 1–29–74

HEW—Disclosure on information of recipients of supplemental security income..... 39 FR 3682, 1–29–74

—Amount of benefits of supplemental security income for the aged, blind, and disabled.... 39 FR 3684, 1–29–74

SEC—Net capital rule; extension of time..... 38 FR 34331, 12–13–73; 39 FR 3974, 1–31–74

USDA—Grade standards for dehydrated, low-moisture apricots.... 39 FR 3831, 1–30–74

—Grade standards for dehydrated low-moisture peaches. 39 FR 3831, 1–30–74

USDA—Viruses, serums, toxins, and analogous products.... 3275; 1–25–74

## Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

NOTE: There were no laws signed by the President during the week.

# Rules and Regulations



Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 752—ADVERSE ACTIONS BY AGENCIES

## Clarification of Meaning of the Term Political Reasons

*Correction*

In FR Doc. 74-2723 appearing at page 4063 in the issue for Friday, February 1, 1974, the seventh line of § 752.304(b) (3) in the third column on page 4063 now reading "physical handicap, the Commission de-" should read "physical handicap, the Commission determines the validity of the allegation * * *".

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO-105-A37; Milk Order 63]

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

## Order Amending Order

*Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Quad Cities-Dubuque marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than March 1, 1974. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued December 18, 1973, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued January 24, 1974. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1974, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

## Order Relative to Handling

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Quad Cities-Dubuque marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1063.7 is revised to read as follows:

§ 1063.7 Producer.

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted to a nonpool plant pursuant to 1063.14(b), except:

(a) A producer handler as defined in any order (including this part) issued pursuant to the Act;

(b) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II utilization; and

(c) Any person with respect to milk produced by him that is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

2. In § 1063.10, paragraph (a) is revised to read as follows:

§ 1063.10 Pool plant.

* * * * *

(a) A distributing plant from which:

(1) The volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 45 percent (40 percent during each of the months of February through August) of the total Grade A fluid milk products, except filled milk, received at such plant, exclusive of receipts of packaged fluid milk products from other pool distributing plants and receipts from other order plants assigned pursuant to § 1063.46(a) (4) (ii) and the corresponding step of § 1063.46(b); and

(2) Not less than 15 percent of net receipts specified in subparagraph (1) of this paragraph is so disposed of during the month in the marketing area on

routes, except that a plant that meets such minimum requirement under this subparagraph during each of the months of September through January need dispose of only 10 percent or more of such receipts in the marketing area on routes during each of the following months of February through August.

* * * * *

3. Section 1063.14 is revised to read as follows:

**§ 1063.14 Producer milk.**

"Producer milk" means the skim milk and butterfat contained in milk from a producer that is:

(a) Received at a pool plant; or

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) For pricing purposes under this part such milk shall be accounted for as received by the diverting handler at the location of the plant to which diverted: *Provided,* That milk diverted to a plant located less than 75 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted or to a plant at which a higher uniform price would be applicable, shall be deemed to be received by the diverting handler at the location of the plant from which diverted; and

(2) In any of the months of September through January, milk diverted from the farm of a producer on days in excess of the number of days that milk was delivered to a pool plant from such farm during the month shall not be producer milk.

4. In § 1063.52(a), the words "subparagraph (3)" are changed to "subparagraphs (3) and (4)" and the last word "and" is deleted in subparagraph (2), the period is changed to a semicolon followed by the word "and" in subparagraph (3), and a new subparagraph (4) is added as follows:

**§ 1063.52 Location adjustments to handlers.**

(a) * * *

(4) At a plant located within the Central Illinois marketing area as specified in Part 1050, add any amount by which the price specified in § 1063.50(b) is exceeded by the applicable Class I price at the same location pursuant to Part 1050 regulating the handling of milk in the Central Illinois marketing area.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: March 1, 1974.

Signed at Washington, D.C., on February 14, 1974.

CLAYTON YEUTTER,
*Acting Secretary.*

[FR Doc.74–3944 Filed 2–19–74;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–EA–52, Amdt. 39–1790]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Canadair Aircraft

On page 29089 of the FEDERAL REGISTER for October 19, 1973, the Federal Aviation Administration published a proposed rule to amend, revise and renumber AD 65–4–4 applicable to Canadair CL–44–D4 and CL–44–J type airplanes.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulation have been received.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

This amendment is effective February 26, 1974.

Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1421 and 1423); sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on February 12, 1974.

JAMES BISPO,
*Deputy Director,*
*Eastern Region.*

CANADAIR. Applies to CL–44–D4 and CL–44–J airplanes certificated in all categories. Compliance required as indicated.

To prevent cracks in the main landing gear uplock actuator cylinder on the Canadair Models CL–44–D4 and CL–44–J aircraft, resulting in the inability to extend the landing gear, accomplish the following:

1. Prior to accumulation of 3,500 hours time in service on the main landing gear uplock actuator cylinders, modify the aircraft in accordance with Canadair Service Bulletin No. CL–44–D4–381, revised September 28, 1968, observing the shimming requirements of Canadair Service Information Circular No. 317–CL–44–D4, dated August 28, 1964, or in accordance with an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

2. For those aircraft modified as described in paragraph 1, the following apply:

a. An uplock actuator cylinder installed in a primary uplock actuator must be replaced prior to the accumulation of 8,000 hours in service in primary uplock actuators. Service time accumulated on uplock cylinders prior to accomplishment of Canadair Service Bulletin No. CL–44–D4–381, must be counted as part of the aforementioned 8,000 hours.

b. Cylinders removed from primary uplock actuators including unmodified, single cylinder uplock systems, may be used in emergency uplock actuators provided that:

(a) Cylinders are subjected to a dye-penetrant inspection, and are found to be free from cracks.

(b) Satisfactory dye-checked cylinders are reidentified to distinguish them from new cylinders.

(c) Cylinders do not exceed 16,000 hours total combined service time in primary and emergency systems.

c. A new actuator cylinder installed in an emergency uplock system has an unrestricted service life.

[FR Doc.74–3922 Filed 2–19–74;8:45 am]

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[Docket No. 10915; Amdt. 91–121]

### PART 91—GENERAL OPERATING AND FLIGHT RULES

#### Emergency Locator Transmitters

The purpose of this amendment to § 91.52(a)(2) of the Federal Aviation Regulations is to extend the compliance date for carrying an emergency locator transmitter (ELT) on most types of general aviation airplanes.

Section 91.52(a)(2) currently specifies December 30, 1973, as the date for compliance. However, on January 2, 1974, an amendment to section 610(d) of the Federal Aviation Act of 1958 (Pub. L. 93–239) became effective which extended the compliance date for ELT equipment until June 30, 1974.

Since this amendment is necessary to make a regulatory compliance date consistent with a statutory requirement, grants relief, and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, and 1424); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c))

In consideration of the foregoing, § 91.52(a)(2) of the Federal Aviation Regulations is amended, February 20, 1974, by deleting the phrase "December 30, 1973," and substituting the phrase "June 30, 1974," therefor.

Issued in Washington, D.C., on February 5, 1974.

ALEXANDER P. BUTTERFIELD,
*Administrator.*

[FR Doc.74–3921 Filed 2–19–74;8:45 am]

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## Title 19—Customs Duties

### CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74–65]

### PART 16—LIQUIDATION OF DUTIES

#### Tomato Products From Greece

A notice published in the FEDERAL REGISTER of March 28, 1972 (37 FR 6360), as Treasury Decision 72–88 imposed countervailing duties on tomato products which benefit, directly or indirectly, from the payment or bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), and which have been imported, directly or indirectly, from Greece on and after May 13, 1972.

The notice stated that because information regarding the exact amount of the bounties or grants was incomplete, declarations of the net amount of the bounties or grants ascertained and determined or estimated to have been paid or bestowed upon the exportation of tomato products from Greece would be published in subsequent issues of the Customs Bulletin.

The liquidation of all entries for consumption or withdrawals from warehouse for consumption of such dutiable tomato products was suspended pending declarations of the net amount of the bounties or grants paid or bestowed.

In accordance with section 303 of the Tariff Act of 1930, the net amounts of the bounties or grants paid or bestowed, directly or indirectly, on tomato products imported, directly or indirectly, from Greece on and after May 13, 1972, have been ascertained and determined or estimated, and such net amounts are hereby declared to be as shown in Appendix A.

Until further notice, upon the entry for consumption or withdrawal for consumption of such dutiable tomato products imported directly or indirectly from Greece on and after May 13, 1972, which benefit from such bounties or grants, if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such tomato products, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. The suspension of liquidation imposed by Treasury Decision 72-88 is hereby rescinded.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the line reading "Greece—Tomato products" the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Declared rates" in the column headed "Action."

(R.S. 251, secs. 303, 624; 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] G. R. DICKERSON,
*Acting Commissioner of Customs.*

Approved: February 13, 1974.

JAMES B. CLAWSON,
*Acting Assistant Secretary of the Treasury.*

APPENDIX A

*Tomato Paste and Tomato Sauce: Bounty or grant*

| *Percentage of dry tomato extract* | *Drachmas per metric ton, unpacked* |
|---|---|
| 15 | 750 |
| 16 | 800 |
| 17 | 850 |
| 18 | 900 |
| 19 | 950 |
| 20 | 1,000 |
| 21 | 1,050 |
| 22 | 1,100 |
| 23 | 1,150 |
| 24 | 1,200 |
| 25 | 1,250 |
| 26 | 1,300 |
| 27 | 1,350 |
| 28 | 1,400 |
| 29 | 1,450 |
| 30 | 1,500 |
| 31 | 1,550 |
| 32 | 1,600 |
| 33 | 1,650 |
| 34 | 1,700 |
| 35 | 1,750 |
| 36 | 1,800 |
| 37 | 1,850 |
| 38 | 1,900 |
| 39 | 1,950 |
| 40 | 2,000 |

When tomato paste or tomato sauce is entered in a range of concentration, for example, 30 percent-32 percent, the median concentration (31 percent) shall be used in assessing countervailing duties.

*Tomato Juice:* 330 drachmas per metric ton, unpacked.

*Peeled Tomatoes:* 330 drachmas per metric ton, unpacked.

[FR Doc.74-4043 Filed 2-19-74;8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-202]

### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Indiana | Allen | Unincorporated areas. | | | | Feb. 14, 1974, Emergency. |
| Louisiana | St. Charles Parish | do. | | | | Feb. 8, 1974, Emergency. |
| Texas | Bexar | Universal City, city of. | | | | Feb. 14, 1974, Emergency. |
| Wisconsin | Rusk | Ladysmith, city of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: February 8, 1974.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.74-3869 Filed 2-19-74;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER E—PESTICIDE PROGRAMS

### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

#### Subpart D—Exemptions From Tolerances

CERTAIN INERT INGREDIENTS IN PESTICIDE FORMULATIONS

*Correction*

In FR Doc. 74–1933 which appeared at page 2758 in the issue of Thursday, January 24, 1974 and corrected on page 4663 in the issue of Wednesday, February 6, 1974, paragraph 2 of the correction should read as follows:

"2. Insert "(e)" after the third line of stars in paragraph (d)."

## Title 43—Public Lands: Interior

### CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5412]

[Idaho 2883]

### IDAHO

### Powersite Restoration No. 690; Partial Revocation of Powersite Reserves Nos. 305 and 362

By virtue of the authority contained in section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. 818 (1970), and pursuant to the determination of the Federal Power Commission in DA–600–Idaho, it is ordered as follows:

1. Executive Orders of October 22, 1912, and May 27, 1913, creating Powersite Reserves Nos. 305 and 362, respectively, are hereby revoked so far as they affect the following described lands:

BOISE MERIDIAN

POWERSITE RESERVE NO. 305

T. 26 N., R. 1 E.,
Sec. 2, SW¼, SW¼SE¼;
Sec. 3, lot 2, SW¼NE¼, S½SW¼, E½SE¼;
Sec. 22, NE¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, NW¼SE¼.

POWERSITE RESERVE NO. 362

T. 26 N., R. 1 E.,
Sec. 4, lots 1 thru 4, S½NE¼, SE¼NW¼;
Sec. 6, lots 6 thru 9;
Sec. 16, SW¼SW¼;
Sec. 17, SW¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 18, lots 1 thru 8, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 19, N½NE¼;
Sec. 20, W½NE¼, SE¼NE¼;
Sec. 21, S½N½, N½SE¼.

T. 26 N., R. 1 W.,
Sec. 1, lots 1 thru 4, S½N½, N½S½;
Sec. 2;
Sec. 3, S½N½, S½;
Sec. 4, SE¼NE¼, E½SE¼;
Sec. 9, NE¼NE¼, SE¼SE¼;
Sec. 10, S½N½, S½;
Sec. 11, SW¼SW¼, S½SE¼;
Sec. 12, E½W½SW¼SE¼, E½SW¼SE¼, SE¼SE¼;
Sec. 13, N½, N½SW¼, E½SE¼;
Sec. 14, N½, N½SE¼;
Sec. 15, N½N½.

The total areas described aggregate 6,007 acres.

All of the above described lands except S½SW¼ sec. 3, T. 26 N., R. 1 E., are either patented, State school lands, or are in the Nez Perce National Forest.

In DA–600–Idaho, the Federal Power Commission determined that the above described lands have no significant power value, and that subject lands should be restored.

2. The State of Idaho has waived its right to select any of the lands described above for highway right-of-way or material site for the maintenance of highways, as provided by the Act of June 10, 1920, 16 U.S.C. 818.

3. The following described lands which were restored to entry under Restoration Order No. 776 of April 23, 1934, subject to the terms and conditions of section 24 of the Federal Power Act, are hereby relieved of the restrictions of said section 24:

BOISE MERIDIAN

T. 27 N., R. 1 E.,
sec. 34, N½SE¼, SW¼SE¼;
sec. 35, N½SW¼.

The above area contains 200 acres.

4. At 10 a.m. on March 19, 1974, the following described public land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 19, 1974, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing:

BOISE MERIDIAN

T. 26 N., R. 1 E.,
sec. 3, S½SW¼.

The above area contains 80 acres.

Inquiries concerning these lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Boise, Idaho 83702.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

FEBRUARY 11, 1974.

[FR Doc.74–3932 Filed 2–19–74;8:45 am]

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[Public Land Order 5413]

[Arizona 7468]

### ARIZONA

### Revocation of National Forest Withdrawal; Revocation of Withdrawal for Forest Service Administrative Site; Withdrawal for Bureau of Land Management Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Presidential Proclamation No. 809 of May 22, 1908, enlarging the Dixie National Forest to include lands in the State of Arizona; Executive Order No. 3972 of March 18, 1924, transferring lands formerly included within the Mt. Trumbull Division of the Dixie National Forest as fixed and defined by Proclamation No. 1334 of May 10, 1916, and designating said lands as part of the Kaibab National Forest; and Secretarial Order of October 27, 1925, including additional lands in Arizona within the boundaries of the Kaibab National Forest, are hereby revoked so far as they affect the following described lands:

KAIBAB NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

T. 34 N., R. 8 W.,
Sec. 4, lots 1 thru 4, S½N½, SW¼;
Secs. 5, 6, 7, 8;
Sec. 9, W½;
Secs. 17 and 18;
Sec. 19, E½;
Sec. 20.
T. 35 N., R. 8 W.,
Sec. 20, E½;
Secs. 21 and 22;
Sec. 23, W½;
Sec. 26, W½;
Secs. 27 and 28;
Sec. 29, E½;
Sec. 31, lot 4, SE¼SW¼, S½SE¼;
Sec. 32, E½, S½SW¼;
Sec. 33;
Sec. 34, N½;
Sec. 35, NW¼.
T. 34 N., R. 9 W.,
Secs. 1 thru 4, 9;
Secs. 10 thru 13;
Sec. 14, NE¼.
T. 35 N., R. 9 W.,
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, S½S½;
Sec. 36, S½S½.

The areas described aggregate 17,642.55 acres in Mohave County.

Of the lands described in paragraph 1, the NW¼NE¼ sec. 19, T. 34 N., R. 8 W., and the SE¼SE¼ sec. 9, T. 34 N., R. 9 W., are patented lands.

2. Secretarial Order of November 19, 1908, withdrawing national forest land as an administrative site, is hereby revoked so far as it affects the following described land:

NIXON SPRING ADMINISTRATIVE SITE

A tract described by metes and bounds as 1 acre in approximately sec. 28, T. 35 N., R. 8 W., Gila and Salt River Meridian.

The Nixon Spring Administrative Site was subsequently surveyed as being located in the NW¼SE¼ sec. 33, T. 35 N., R. 8 W.

3. Subject to valid existing rights, the following described land is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of the Interior:

NIXON SPRING ADMINISTRATIVE SITE

T. 35 N., R. 8 W.,
sec. 33, part NW¼SE¼, described in the Secretarial Order of November 19, 1908, by metes and bounds, located in approximately sec. 28, T. 35 N., R. 8 W., Gila and Salt River Meridian.

The area described aggregates one acre.

4. At 10 a.m. on March 21, 1974, the public lands shall be open to operation of the public land laws, subject to valid

existing rights, any existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 21, 1974, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The unreserved public lands described in paragraph 1 of this order have been and continue to be open to applications and offers under the mineral leasing laws, and to location and entry under the United States mining laws.

Inquiries concerning the lands shall be addressed to the Chief, Division of Technical Services, Bureau of Land Management, 3022 Federal Building, Phoenix, Arizona 85025.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

FEBRUARY 13, 1974.

[FR Doc.74-3941 Filed 2-19-74;8:45 am]

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[Public Land Order 5414]

[Utah 0147788]

## UTAH

### Powersite Restoration No. 650; Partial Revocation of Powersite Reserve No. 107

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1970), and pursuant to a determination of the Federal Power Commission in DA-192-Utah, it is ordered as follows:

1. The departmental order of January 21, 1910, as confirmed by Executive Order of July 2, 1910, creating Powersite Withdrawal No. 107, is hereby revoked so far as it affects the following described lands:

ASHLEY NATIONAL FOREST

SALT LAKE MERIDIAN

T. 2 N., R. 20 E.,
sec. 1, lots 1, 2, 3, SW¼NE¼;
sec. 11, lots 1 thru 5;
sec. 12, lot 1, NW¼SW¼, SE¼SW¼;
sec. 13, lots 1, 2, 3, W½NE¼;
sec. 24, lot 1.
T. 3 N., R. 20 E.,
Sec. 35, lots 1 thru 10, NW¼NW¼, N½SE¼, SW¼SE¼.
T. 2 N., R. 21 E.,
Sec. 5, W½NW¼, NW¼SW¼;
Sec. 6, lots 1, 8 thru 12;
Sec. 11, S½S½;
Sec. 12, lots 1, 2, 3, NE¼SW¼, SW¼SW¼;
Sec. 13, lot 1;
Sec. 14, lots 1 and 2;
Sec. 15, lots 1, 2, E½NE¼;
Sec. 19, lots 3 thru 8;
Sec. 20, lots 1 thru 4, NE¼NE¼, SW¼NE¼;
Sec. 21, lots 1 thru 4, N½NE¼;
Sec. 22, lots 1 thru 4, W½NE¼, NW¼.
T. 3 N., R. 21 E.,
Sec. 17, lots 1, 2, 3, E½SW¼, SE¼;
Sec. 20, E½, E½W½;
Sec. 21, W½;
Sec. 28, N½NW¼, SW¼SW¼;
Sec. 29, S½S½;
Sec. 30, lots 1 thru 11;
Sec. 31, lots 2 thru 9.
T. 2 N., R. 22 E.,
Sec. 7, lots 2 thru 8, SE¼SW¼, SE¼SE¼;
Sec. 8, SE¼SE¼;
Sec. 9, lots 1 thru 4, SW¼SW¼;
Sec. 10, lot 1, S½NW¼, SW¼SE¼;
Sec. 15, lots 1 thru 4, E½NE¼;
Sec. 17, lots 1, 2, 3;
Sec. 18, lots 1 thru 5, NE¼.

The areas described aggregate approximately 6,759.21 acres.

2. The Federal Power Commission in its determination in DA-192-Utah, also vacated the withdrawal made for Power Project No. 165 in its entirety. The segregative effect of said withdrawal is hereby lifted as to the following described lands:

SALT LAKE MERIDIAN

T. 2 N., R. 20 E.,
Sec. 1, lots 1, 2, 3, SW¼NE¼, SE¼.
T. 3 N., R. 20 E.,
Sec. 13, lot 4, NW¼SW¼, SE¼SW¼, S½SE¼;
Sec. 14, lots 1 and 2;
Sec. 23, S½S½;
Sec. 24, NE¼NE¼, SW¼, W½SE¼;
Sec. 25, lots 1, 2, 4;
Sec. 26, lots 1, 2, 3, 4.
T. 2 N., R. 21 E.,
Sec. 5, NW¼, N½SW¼;
Sec. 6, lots 1 thru 12;
Sec. 11, W½NE¼, E½NW¼, NE¼SW¼, S½SW¼, W½SE¼, SE¼SE¼;
Sec. 14, lots 1 and 2.
T. 3 N., R. 21 E.,
Sec. 13, S½SW¼;
Sec. 14, S½S½;
Sec. 15, lots 1 thru 7, S½SE¼;
Sec. 17, lots 1 thru 4, S½;
Sec. 18, lots 1 thru 6, E½SW¼, SE¼;
Sec. 19, lots 1 and 2, NE¼, E½NW¼, N½SE¼;
Secs. 20 and 21;
Sec. 22, lots 1 thru 10, E½;
Sec. 23, N½, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Sec. 24;
Sec. 25, N½NE¼, SW¼NW¼, NW¼SW¼;
Sec. 26, S½NE¼, NW¼, S½;
Sec. 27, lots 1 thru 9, E½;
Sec. 28;
Sec. 30, lots 1 thru 11;
Sec. 31, lots 1 thru 9, S½NE¼, N½SE¼, SW¼SE¼;
Sec. 33, lots 1 and 2, S½N½, NE¼SW¼, N½SE¼;
Sec. 34, N½NE¼, NW¼NW¼;
Sec. 35, NW¼NE¼, NW¼, SW¼.
T. 3 N., R. 22 E.,
Sec. 19, lots 1, 2, 3;
Sec. 30, lot 1.

The areas described aggregate approximately 9,141.55 acres.

The total of the areas described above aggregates approximately 15,900.76 acres in Daggett County.

3. All of the above described lands are in the Ashley National Forest, and have been withdrawn for the Flaming Gorge National Recreation Area under the jurisdiction of the Department of Agriculture, pursuant to the Act of October 1, 1968, 82 Stat. 904, and some of the lands have been withdrawn for reclamation purposes. Accordingly, none of the lands involved are open to entry and any use of these lands will be governed by the provisions of that Act, and the provisions of existing withdrawals.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

FEBRUARY 13, 1974.

[FR Doc.74-3940 Filed 2-19-74;8:45 am]

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[Public Land Order 5415]

[Oregon 10548]

## OREGON

### Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. sec. 416 (1970), it is ordered as follows:

1. The order of the Secretary dated August 16, 1905, withdrawing lands for the Umatilla Project, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 4 N., R. 28 E.,
sec. 2, NW¼SE¼NE¼.
T. 5 N., R. 28 E.,
sec. 34, W½SE¼NW¼.
T. 5 N., R. 29 E.,
sec. 19, NE¼SE¼.

The areas described aggregate 70 acres in Umatilla County.

2. All of the lands described are embraced in allowed homestead entries.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

FEBRUARY 13, 1974.

[FR Doc.74-3939 Filed 2-19-74;8:45 am]

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# Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 2)]

### PART 1057—LEASE AND INTERCHANGE OF VEHICLES

### Adjustment of Compensation for Equipment Leased by Motor Carriers of Property Because of Rising Fuel Costs

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 14th day of February, 1974.

This rulemaking proceeding, instituted on our own motion on January 30, 1974, and published at 39 FR 4488, looks toward the modification of our regulations governing the lease and interchange of vehicles (49 CFR Part 1057). The change proposed would require that the compensation paid for leased equipment by certain motor common or contract carriers of property subject to part II of the Interstate Commerce Act, 49 U.S.C. 301 et seq., be adjusted to reflect rising fuel costs where the lessor is responsible for supplying the fuel. To accomplish this, the following two new sentences would be added at the end of § 1057.4(a)(5) which now requires that compensation paid by the lessee for the rental of equipment be specified in the lease:

Compensation paid by the lessee shall, on and after ---------, 1974 (the effective date of the proposed regulation), and notwithstanding any other arrangement therefor, be increased by an amount equal to the increased costs of fuel purchased at lawful

prices and borne by the lessor, provided the lessor is responsible for supplying the fuel consumed in operations conducted under the lease. The amount of such increase shall be: (i) Added to the compensation paid the lessor for the leased equipment; and (ii) computed by subtracting from the lawful prices actually paid or to be paid by the lessor for fuel consumed in the operations for which the equipment is leased, the lawful price or prices of the same type of fuel under the same pricing practice in effect on May 15, 1973.

The initiating notice and order, incorporated herein by reference, fixed February 20, 1974, as the date on or before which written data, views, or arguments may be submitted on the proposed rule. As a result of the adoption by the Senate on February 5, 1974, of Joint Resolution No. 185 introduced in response to the emergency arising out of an expanding work stoppage among independent truckers, a corrected order shortening the comment period to February 13, was served February 6, 1974, and published at 39 FR 4787.

The Joint Resolution, later adopted by the House of Representatives and then signed by the President on February 8, 1974 (Pub. L. 93-249), requires that our final order in this matter take effect no later than February 15, 1974.

All comments submitted with respect to the proposed modification have been given due consideration. Those parties submitting such representations are identified in the appendix hereto. In sum, their representations reveal the following major inquiries and criticisms with respect to the proposed action: (1) That we lack the statutory power here to specify the compensation to be paid for leased equipment or to alter the terms of existing rental contracts; (2) that the considered rule is unclear in scope and would not benefit lessors of equipment used in agricultural or perishable operations; (3) that the proposed rule has been rendered unnecessary in view of our entry on February 7, 1974, of Special Permission Order no. 74-2525, which will be discussed subsequently herein, or that the action taken herein must, at the least, be tied to the Special Permission Order; (4) that the considered regulation is rigid and complex, and soon would prove to be a source of many disputes over compensation among carrier lessees and equipment lessors; (5) that the proposed rule would cause the expenses of carriers leasing equipment to increase and such expenses ultimately must be borne by the shipping public and consumers; (6) that the financial stability of many carrier lessees would be jeopardized by the considered regulation; (7) that our contemplated action fails to recognize that consideration already has been given to increased fuel costs and that many equipment lessors already have been adequately compensated for such increases; (8) that the proposed modification would be difficult to enforce and there is no effective machinery for resolving disputes that will arise under it; (9) that the proposed rule should be modified to allow lessors and lessees mutually to agree on additional compensation to offset increased fuel costs and to waive the protections and benefits intended; (10) that any rule such as the one proposed should not be retroactive and should have a fixed termination date; and (11) that the proposed regulations would have a negative environmental effect.

## Discussion

*Jurisdiction.* Our authority to promulgate regulations governing the lease of motor vehicle equipment, including the compensation paid therefor, was judicially confirmed by the Supreme Court in American Trucking Associations, Inc. v. United States, 344 U.S. 298 (1953). It has since been legislatively recognized by the approval on August 3, 1956, of Public Law No. 957 (70 Stat. 983) amending section 204 of the Interstate Commerce Act. Not only does that statutory amendment expressly preclude us from regulating the duration of, or the compensation paid for, the lease of equipment used in agricultural or perishable operations, as more fully set forth in 49 CFR 1057.4(a)(3)(i), but it also serves to acknowledge our ability to exercise such power with respect to all other equipment leased to common and contract carriers by motor vehicle licensed by us.

The right to contract would not be unconstitutionally impaired were the proposed regulation adopted. By its terms, the prohibition against "impairing the obligation of contracts", found in Article I, section 10, clause I of the United States Constitution, runs only to the actions of a State. The argument that this Commission may not constitutionally alter the terms of contracts to the extent that they apply to compensation paid for leased equipment is thus without foundation. The Supreme Court itself, in the cited proceeding, expressly rejected the argument that the due process clause of the Fifth Amendment to the Constitution, insofar as it pertains to the deprivation of property, prohibits this Commission from adopting regulations governing the lease and interchange of vehicles.[1]

The essential elements of due process of law are notice and an opportunity to participate in the rulemaking process. Our notice instituting this proceeding, and our actions here, fully satisfy those requirements.

It has been further asserted here that we are powerless to act in the instant situation unless we first schedule and hold oral hearings in which the carriers and other interested persons may present and test evidence as to the presence or absence of a need for the proposed fuel adjustment in the compensation carriers pay to their equipment lessors. The Interstate Commerce Act does not, by its terms, require an oral hearing in this matter, and section 205(e) thereof [49 U.S.C. 305(e)] specifically recognizes that all interested parties are to be afforded an "opportunity for intervention in any such proceeding for the purpose of making representations to the Commission or for participating in a hearing, *if a hearing is held.*" (Italic added.) Because an oral hearing herein is required neither by statute nor, as seen earlier, by the Constitution, the procedure followed herein in prescribing a rule having future effect and applicability is in keeping with the requirements of the Administrative Procedure Act, 5 U.S.C. 553.

Our initiating notice and order further referred to the transportation problems to which the contemplated regulation would be responsive, the importance of "purchased transportation"—leased equipment—to regulated motor carriers and the public dependent upon their services, and our duty under the National Transportation Policy declared by the Congress, 49 U.S.C. preceding section 1, to develop, coordinate, and preserve a national transportation system adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. Since that time, Pub. L. 93-249, approved February 8, 1974, recognized the national emergency arising out of the expanding work stoppage among independent truckers, and looked to this Commission to take effective steps to alleviate that emergency. The argument that we remain powerless to act on a timely and reasonable basis cannot be accepted. An oral hearing in this proceeding, in our judgment, would serve no useful purpose, is not required, and will not be scheduled.

*Scope and applicability of the proposed rule.* Before discussing in detail the comments received with respect to the proposed rule, it should be noted at this point that our regulatory authority is limited and that the parameters of our statutory powers appear to be widely misunderstood by many of those interested in the outcome of this proceeding. The Supreme Court held in American Trucking Associations, Inc., v. United States, supra, that the power to regulate equipment leasing lies within the broad provisions of the Interstate Commerce Act even though such authority was not then explicitly set forth therein. This was basically because the regulation of the leasing practices of carriers subject to our jurisdiction was deemed to be vital to our ability effectively to enforce the Act. By the same token, our leasing regulations and any proposed modifications therein cannot extend beyond those who are engaged in transportation subject to our regulatory control.

Insofar as we are here concerned, transportation services provided by licensed motor common and contract carriers of property basically consist of the physical interstate movement of consignments of freight from one place to another. Parties to contracts of carriage

[1] The Court had this to say at page 322 of its Opinion:

* * * The rule-making power is rooted in and supplements Congress' regulatory scheme, which in turn derives from the commerce power. The fact that the value of some going concerns may be affected, therefore, does not support a claim under the Fifth Amendment, if the rules and the Act be related, as we have said they are, to evils in commerce which the federal power may reach.

are limited to the shipper, receiver, and carrier or carriers involved. Demands for transportation service often are seasonal or otherwise variable, and, thus, from time to time service demands exceed available equipment supplies. To satisfy the service demands of their customers and to avoid the necessity of financing and otherwise supporting excessive transportation capacity during periods of reduced demand, many motor carriers resort to equipment leasing to smooth out the peaks and valleys of their operations. Numerous such carriers also rely heavily on leased equipment for conducting substantial portions of their regular operations.

Whether equipment is leased with or without a driver, the service is actually performed for the shipper and receiver, and it is provided by the lessee-carrier. No privity of contract exists between equipment-lessors and shippers and receivers when a regulated carrier utilizes leased equipment. Contractual rights and obligations of lessors are limited to those derived from their contract with carrier-lessees. The failure fully to comprehend these relationships—wherein the licensed carrier serves the shipping and receiving public and the carrier obtains equipment from the lessor or independent owner-operator for use in that service—seems to have led to a widespread misunderstanding as to the nature and scope of the proposed modification in our leasing regulations here under consideration. These same misconceptions have carried over to certain of our Special Permission Orders providing for expedited procedures for publishing rate increases in the form of surcharges to reflect increased fuel costs.

Additional confusion seems to have developed over the use in the notice and order instituting this proceeding of the term "pass through." We also are aware that the meaning of the term "surcharge" as used in the context of the Special Permission procedures described in the succeeding section of this report has presented some difficulty. Both terms, of course, refer to adjustments to be made for increased costs of fuel. The instant proceeding, however, is limited in application to the actual amount to be added to the compensation paid or to be paid an equipment lessor by the licensed carrier in order to reflect actual increases in fuel costs borne by the lessor for fuel consumed in operations conducted with his leased equipment. A freight-rate "surcharge", in contrast, refers to a percentage increase in freight rates, up to 6 percent in Special Permission Order No. 74-2525, by which rates published in a tariff may be increased by regulated motor common carriers (including the lessee referred to above) and charged to shippers or receivers of property. It thus becomes readily apparent that the instant proceeding is concerned with fuel-cost adjustments as between the equipment lessor and the carrier-lessee (and not the shipper as some apparently have believed), while the special-permission surcharge procedure relates to such an adjustment as between the carrier and those who ultimately pay the freight charge. With the above clarifications in mind, we shall summarize the equipment and types of operations to which our leasing regulations apply or do not apply.

The provisions of part II of the Interstate Commerce Act authorize us to prescribe regulations with respect to the lease of equipment only by regulated common and contract carriers by motor vehicle. Section 204(f), however, specifically precludes us from regulating the duration of a lease or the compensation paid by such carriers for the use of certain equipment regularly utilized in agricultural or perishable operations.[2] Hence, any regulation adopted in this proceeding will have limited application and will not apply to compensation paid for such motor vehicles as are within the limitations set forth in 49 CFR 1057.4(a)(3)(i)—basically those which are regularly used in the transportation of exempt agricultural commodities and perishable products thereof.

In recognition of the limited scope of our relevant statutory authority, it has been proposed in this proceeding that we recommend to Congress the amendment of the Interstate Commerce Act to embrace the transportation of currently exempt commodities. It is maintained that the proposed regulation would only benefit roughly 50 percent of the owner-operators who happen to lease their equipment to regulated carriers; that independent truckers who transport exempt traffic will continue to have to bear the entire burden of the recent fuel increases; that this class of trucker is no less entitled to relief; and that the public is no less dependent upon them. We believe that this matter deserves the prompt and careful study and consideration of the Congress and, while we do not now take a position with respect to whether legislative relief is necessary in this regard, we commend this recommendation to the Congress' immediate attention.

*The effect of Special Permission Order No. 74-2525.* It is evident that some of those who have either commented publicly or submitted representations in this proceeding misconceive the purport of Special Permission Order No. 74-2525. Public statements to the effect that all rates now may automatically be increased by 6 percent and those to the effect that all compensation for leased equipment may be raised by that percentage are erroneous. Certain other distinctions which exist between the Special Permission Order and the proposed rule change have been treated earlier herein. At this point, however, it is necessary to observe that, as here material: (1) the Special Permission Order allows rate increases to be published by motor common carriers of property on one-day's notice; (2) that such increases will be allowed up to 6 percent; and (3) that revenues produced by such percentage surcharges as are allowed are to be passed-through to those who directly bear the burden of increased fuel costs. The rule here proposed, on the other hand, is directed toward compensating, with or without publication of such surcharges by motor common carriers, lessors of equipment who participate in the transportation of property by motor common and contract carriers.

Experience of this Commission under Special Permission Order No. 74-1825, as amended, revealed—and attention was drawn to this fact in the initiating order herein as well as in the amendment of the original order and the adoption of Special Permission Order No. 74-2525—that a number of carriers failed to avail themselves of the opportunity to publish increased rates under the expedited procedures authorized. In recognition of the needs (a) for authority to publish rate increases on one-day's rather than 10-days' notice, and (b) for eliminating the necessity to supply supporting data obtainable primarily through experience under increased fuel costs, Special Permission Order No. 74-2525 revoked the earlier-authorized procedures and adopted the procedures which now apply for all motor common carriers. Carriers still are not required to publish such increases although it was expected—and recent experience amply bears out that expectation—that more would do so than had been the case under the former procedures.

Nevertheless, the problem of inadequately compensating lessors of equipment still exists and the potentiality of its contributing to work stoppages directly affecting regulated carriage and indirectly affecting all transportation and commerce continues. Those participants who now argue that issuance of our latest special permission order negates any need for the relief under consideration in this proceeding ignore the possibilities that carriers, for competitive and other reasons, may not file for

[2] Section 204(f) provides as follows:

(f) Nothing in this part shall be construed to authorize the Commission to regulate the duration of such lease, contract, or other arrangement for the use of any motor vehicle, with driver, or the amount of compensation to be paid for such use—(1) where the motor vehicle so to be used is that of a farmer or of a cooperative association or a federation of cooperative associations, as specified in section 203(b)(4a) or (5), or is that of a private carrier of property by motor vehicle as defined in section 203(a)(17) and is used regularly in the transportation of property of a character embraced within section 203(b)(6) or perishable products manufactured from perishable property of a character embraced within section 203(b)(6), and such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based; or (2) where the motor vehicle so to be used is one which has completed a movement covered by section 203(b)(6) and such motor vehicle is next to be used by the motor carrier in a loaded movement in any direction, and/or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.

increases in the form of surcharges and that carriers may file for surcharges which will not result in adequate compensation to the owner-operators. They also overlook the fact that owner-operators reportedly are responsible for more than 20.5 percent of the total intercity miles operated by authorized contract carriers not subject to the Special Permission Order. Hence, representations to the effect that this proceeding should be discontinued because of the adoption of Special Permission Order No. 74-2525 are based on invalid assumptions and are, therefore, rejected.

*Complexity of the proposed rule.* By far the vast preponderance of the representations received from motor carriers licensed by us complain that the contemplated relief is overly complicated and burdensome to the carriers who utilize leased equipment in their operations, and that the regulation in the form proposed in our initiating notice and order fails to take account of those fuel-cost adjustments previously made by the carrier-lessees and passed on to the owner-operators. These two major issues form the nucleus of the substantive criticisms directed to the initially proposed rule, and it is on these problems that we shall next focus our attention. We might also point out here that the regulation we adopt has been modified in at least a partial response to these problems.

Certain of the arguments advanced by respondents and others that the proposed modification is too complex for reasonable application rest on the premises: (1) That carrier-lessees would have to be informed of an almost infinite number of "lawful" prices of fuel in effect throughout the country on May 15, 1973; (2) that computations based on the differences between the lawful fuel prices paid on May 15, and the lawful prices paid after the effective date of the proposed rule, present similar difficulties and also invite certain types of illegal and fraudulent activity, obviate the incentive of users of fuel to seek out the cheapest sources of available fuel, and would cause lessees to underwrite, and the shipping public ultimately to bear, the added costs engendered by such problems and activities; (3) that the proposed rule leaves those who would be bound by it without a meaningful remedy for minimizing or eliminating its misuse; and (4) that consideration should be given to the establishment of monthly averages based on average fleet base prices of fuel.

As we view it, however, the carrier-lessees would not, as has been suggested, have to go to any great length to obtain information as to the pertinent fuel prices lawfully in effect on May 15, 1973. That date was selected, in part, because it antedates the period of severe fluctuation in fuel prices and because it would be representative of the dramatic increases in fuel costs that many equipment lessors have heretofore been required to absorb. The carriers' existing records would first provide an excellent source of information on such prices, as is evidenced by a number of the representations submitted in the proceeding demonstrating that the carriers, for State tax and other purposes, maintain extensive records as to the costs of fuel consumed in their operations. Such records should prove to be immensely helpful in all instances where operational patterns have not changed substantially since the base date. Each lessee would have sufficient economic justification, and therefore can be expected, to examine the claims of lessors based on what appear to be unreasonably low base period prices and to investigate and challenge the authenticity of them. Similarly, lessees would be expected to investigate and question what appear to be unreasonably high current prices for fuel, based on the information readily available to them. Average prices of fuel for purchases on the base May 15 date and after the effective date of the rule, mileage records for the same or similar operations, and average amounts of fuel consumed in the past in operations of the same or similar equipment could serve as guidelines to alert lessees to unreasonably high fuel-adjustment claims. The base-date cost would not change and, for those owner-operators whose equipment regularly is leased, the computations would be complicated to a limited extent only by the amounts paid for purchases made in the future. And this aspect of the problem does not appear insurmountable, for at least one respondent organization, consisting of household goods carriers, reportedly maintains for its members current information regarding the prices and practices of about 800 fuel-stops throughout the country.

It must be remembered that this Commission's leasing regulations specifically require carrier-lessees to exercise complete possession, dominion, and control over operations conducted with leased equipment. 49 CFR 1057.4(a)(4). Thus, a carrier-lessee may—and, where necessary, it will be expected to—specify routing and fuel stops to be utilized by those who lease equipment to it under the regulations. The responsibility and commensurate authority to control operations conducted with leased equipment, and to choose the equipment lessor in the first instance, also adequately enable carrier-lessees to control most, if not all, of the potentially abusive practices of unscrupulous lessors about which fears have here been expressed by the responding carriers.[3]

It must also be borne constantly in mind, in appraising the extent of the burdens that would be placed upon the carrier-lessees by our adoption here of an appropriate fuel-adjustment rule, that the carriers' ability to augment their own equipment fleet is largely a privilege and not a right under the statute.[4] The continuation of this privilege (which has been called into question by a number of the parties here) carries with it a number of significant economic and competitive advantages against which the added burdens of which they complain must be weighed. Those advantages include, but are not limited to, the ability: To expand or contract their operating fleets as demands for service fluctuate; to minimize the need for maintenance facilities, parts inventories, and service personnel; to conduct operations from smaller terminal facilities and equipment parking areas; to stimulate productivity in the driver work force; to avoid taxes; and in some instances to avoid licensing fees.

Suggestions that monthly or other averages of fuel-price increases should be employed, that additional fuel allowances should be based on mileage, and that other methods of computing such adjustments not discussed elsewhere herein should be given greater weight, all fail to accord sufficient attention to the basic thrust of the proposed rule change. As has been pointed out earlier herein, equipment lessors should be allowed an adjustment in compensation only for those fuel prices actually paid and then only to the extent that such prices have increased since the base period. The use of averages and other devices, while they might appear to provide greater ease of computation in certain instances, tend not to be realistic in the sense of making the equipment lessors whole. It was the absence of a means for the lessors being made whole which was the common foundation for this Commission's action in instituting this proceeding and for the independent truckers' recent protests. Accordingly, we are not persuaded by contentions which fail to embrace that basic premise. In recognition of the abundance of opposition to the proposed rule on the grounds that it is likely to be cumbersome in application for certain types of operations, however, we will later discuss the feasibility of an alternative plan designed to achieve the sought goal with a minimum of complexity.

Some representations contain assertions that the proposed rule fails to take into account the facts (a) that certain lessors of equipment may not have purchased fuel on May 15, 1973, (b) that their equipment may have been purchased new or replaced and leased for the first time subsequent to that date, or (c) that some lessors may hereafter lease their equipment for the first time.

It must be recognized that not all equipment now in service was fueled on May 15, 1973. The owner-operator of such

[3] This appears to be an adequate response, too, to the argument of Bray Lines, Incorporated, to the effect that independent owner-operators would be required, by the proposed rule, to take on more of an employee relationship with lessees than is permitted under criteria established by the National Labor Relations Board.

[4] The contention, raised by one of the parties hereto, that section 208(a) of the act, 49 USC 308(a), specifically safeguards the right of the carrier to add to its equipment by leasing or otherwise, and precludes Commission control over the carrier's leasing practices, was specifically rejected by the Supreme Court in the American Trucking Associations case, supra.

equipment may then have been on vacation, ill, or otherwise unable to drive. The equipment may have been undergoing repairs or maintenance servicing and therefore not operated. And the equipment in service on that date may have since been retired, wrecked, or sold.

The proposed modification basically is intended to alleviate an inequitable situation—one in which an owner-operator can no longer economically operate in the absence of some form of relief from rapidly-rising fuel costs. The May 15 date was selected because that is the date on which pricing controls on fuels were modified by the Cost of Living Council and for the reasons alluded to earlier herein. Thus, the purpose of the rule would be served were it made to apply to the price actually paid or an obligation undertaken to pay for the purchase of fuel last preceding May 15, 1973. In the event a lessor of equipment leased his equipment for the first time on a date subsequent to May 15, 1973, or hereafter leases his equipment for the first time, the purpose of the rule would be served if the critical price for application of the rule were to be the price paid for the lessor's first purchase of fuel subsequent to May 15th.

Allegations are made that the proposal overlooks the complexity of applying it in a situation in which a trip is begun or ended with a partially filled fuel tank, with or without intermediate refills, with the fuel thus consumed purchased at the same or different prices. Whenever a full tank of fuel is completely consumed in an operation conducted with leased equipment, no problem would seem to be presented. Whether purchased at the same or different prices, the total cost of the fuel can readily be computed. However, when a trip is commenced or terminated with a partially filled fuel tank, it would be necessary to compare the overall mileage of the trip with the total amount of fuel consumed and document in the lessee's record of payment of compensation the fuel-consumption averaging employed for the beginning or end of the trip or both, as the case may be.

*Fuel-cost adjustments previously made in carriers' compensation for leased equipment.* As noted earlier, the intent of the proposed modification is to remedy an inequitable situation by providing additional compensation to those equipment lessors who are responsible for fuel expenses under a lease, and to do so to the extent that the amount currently paid for such fuel exceeds the costs thereof on May 15, 1973. Contrary to the fears expressed by numerous participants in this proceeding, we do not intend to require double compensation in those instances where the compensation paid by a carrier for leased equipment already has been adjusted in whole or in part for the specific purpose of reimbursing the lessor for increased fuel costs. The intent of the rule may best be illustrated by the following three examples:

Assume 31 cents was paid by the lessor for each gallon of fuel purchased on May 15, 1973, and the current price for the same is 44 cents-per-gallon:

(a) If no adjustment has been made in the compensation paid for equipment leased after May 15th, the additional amount which should be reimbursed to the lessor would be 13 cents-per-gallon multiplied by the number of gallons consumed in operations performed under the lease.

(b) If the compensation for leased equipment has been adjusted upward to an extent which equals or exceeds 13 cents-per-gallon by passing on to the lessor fuel-cost rate increases or surcharges, no additional reimbursement would be allowed.

(c) If the compensation paid for leased equipment has been adjusted upward by an amount equivalent to 7 cents-per-gallon, the reimbursement to the lessor would be 6 cents-per-gallon times the number of gallons consumed in operations conducted under the lease.

A number of respondents argue strenuously that they have acted responsibly during the period since May 15, 1973, by periodically increasing the compensation they pay to owner-operators of equipment to offset increased fuel costs. The form of these increases, they say, has a broad range and includes such things as raising rates (which would be beneficial to lessors compensated on a percentage-of-revenue basis), increasing mileage allowances, and absorbing such other expenses as fuel taxes that may have increased, licensing fees, and certain expenses incurred in conducting empty vehicle operations. Therefore, they maintain that any rule adopted herein should allow them to reduce fuel-cost adjustments computed thereunder by the amount or amounts of increased compensation which their equipment lessors already enjoy.

To the extent that such increased compensation has taken forms other than a percentage of specific rate increases, however, there would be no practicable way to ascertain whether such prerequisites as the carrier's payment of licensing fees or the absorption of other expenses are the direct result of increased fuel costs or attributable to the success of the owner-operator in negotiating some other basis for added compensation or fringe benefit. As a consequence, the rule we here adopt will not take these fringe benefits into account in arriving at a proper fuel-adjustment formula for application to the compensation paid under an equipment lease. The carrier-lessee and the equipment-lessor will be free to renegotiate such fringe benefits as may have been predicated on the recently dramatic increases in the price of fuel to avoid over-compensation for such price increases.

Those participants who urge us to allow lessors and lessees mutually to agree on fuel adjustments imply in their representations that adoption of the proposed rule would preclude their freely negotiating with owner-operators mutually acceptable leases. It is true, of course, that parties to equipment leases have been relatively free to negotiate the terms and conditions of the leases. A number of respondents point with justifiable pride to their already having made appropriate fuel adjustments in their arrangements prior to the initiation of this proceeding. The failure of some to do so, however, contributed to the public need for a mandatory fuel-adjustment rule to be added to our leasing regulations. This fact, taken in conjunction with the distinctions discussed earlier herein between the proposed rule and the special permission order, and the recognized unevenness that has characterized the bargaining positions of the carrier and the independent trucker, amply demonstrate the plain public necessity for not allowing in the future the same degree of latitude as was enjoyed in negotiating the terms of leases to the extent that they govern compensation of owner-operators. That is a matter which, because of the overriding public interest, can no longer be left completely in the hands of the parties to the lease.

Further clarification also might be helpful insofar as certain methods of determining compensation are concerned. In the event compensation is paid for leased equipment on a percentage-of-revenue basis (i.e., the lessor is paid a given percentage of the freight charges applicable to and derived from the transportation service provided), an additional adjustment for increased fuel costs nevertheless may be required. An owner-operator should not, in our judgment, be required to absorb any part of the dramatic increases in fuel costs that have occurred since May 15, 1973. Where the base amount of compensation (the percentage of revenue unadjusted for increased fuel costs) plus the amount of the percentage surcharge obtained by the carrier, and passed through to the lessor, pursuant to the special permission procedures are not adequate to compensate the lessor for his actual increased fuel costs, an additional reimbursement must be paid the lessor by the carrier lessor pursuant to the rule we here adopt.[5] By the same token, where the amount of the percentage surcharge obtained by a motor common carrier, and passed through to the lessor, under the special permission procedures adequately compensates the owner-operator for the increased fuel costs expressed by him, the fuel-adjustment rule we here promulgate contemplates that no additional compensation need be paid by the carrier to the lessor on the basis of this rule. This relatively minor revision in the substance of the proposed regulation should, for a time at least, alleviate many of the concerns expressed by certain of the carrier respondents as to the paperwork burdens confronting both them and their equipment lessors, without detracting significantly from the principal thrust of this proceeding—the reimbursement of the owner-operator for his increased fuel costs.

We might add at this juncture that an alternative system of compensating owner-operators, proffered by Cartwright Van Lines, Inc., is deserving of

[5] In that event, the carrier can seek to obtain appropriate rate increases in accordance with our standard tariff-filing procedures.

further consideration. Although we do not envision it as presently having sufficient merit as would constitute it a viable alternative to the rule adopted herein, it would seem to have several distinct and worthwhile advantages, especially with respect to fuel adjustments to be made in the future pursuant to procedures authorized by Special Permission Order No. 74-2525. In essence, Cartwright's suggestion is that fuel cost data, which by law it (and presumably most, if not all, other regulated carriers) presently must supply on a monthly or quarterly basis to various State regulatory bodies, might serve as a factual basis against which the impact of fuel price increases might be assessed. Percentage increases or decreases based upon such actual fuel-purchase data might well be utilized by this Commission in establishing future guidelines for fuel-cost adjustments. Therefore, the proposal will be given further study in that connection by this Commission.

Another point should be explained with respect to the proposed rule and the application of it to those situations in which equipment lessors are compensated by the percentage-of-revenue method. It has come to our attention that carrier-lessees at times fail to allow owner-operators to examine their extended freight by the applicable rate or rates for the bills (an extended freight bill reveals the gross weight of the shipment multiplied commodities involved). Were we to allow this practice to continue, many equipment owners may be improperly deprived not only of their full base compensation but also of the benefits intended to be given them by the modification proposed in this proceeding. Thus, we wish to make it clear that an opportunity on the part of lessors to examine, as a matter of right, the extended freight bills is inherent in and indispensable to faithful compliance by carrier-lessees with the rule adopted herein, whenever the lease agreement provides for compensation based on a percentage of the revenue. In those instances where shipment weights or rates are not immediately determinable, or where rating and billing are performed elsewhere than the point of origin or destination of the lease operation, reasonable opportunity must be accorded to carrier-lessees to obtain sufficient information, compute the changes, and to perform the billing function.

*Increased expenses for equipment lessees.* Several respondents and carrier associations aver that the administrative and other cost burdens that would be generated by the adoption of the proposed rule ought not be borne fully by carrier-lessees. They say that the clerical and other expenses resulting from application of the considered regulation will have to be recovered if the efficient and economical operations of carriers are to be sustained.

The proposed rule is designed to adjust compensation for leased equipment to reflect increased fuel costs. We are not persuaded that the arguments advanced in certain of the comments—such as that more time, clerical help, stationery, and the like will be needed—represent sufficient justification for reducing the compensation paid by the carrier-lessees to the equipment suppliers. Such arguments overlook three significant facts. The first is that because actual fuel costs are inescapable expenses in transportation, attention therefore must be given to efficiency of operation in order to hold such costs in line. Lessees, not lessors, control the operations and the level of that control determines the carriers' relative operational efficiency. The second point is that clerical and other costs would continue under the proposed rule to remain under the control of the lessees rather than the lessors. The ability to eliminate unnecessary cost burdens would rest with the lessees and, thus, the suggested apportioning of those costs between lessors and lessees would run counter to sound business practices. And third, carrier expenses—reduced to the fullest extent possible by managerial skills—must be passed on to the users of transportation rather than in the direction of those who participate in its provision. To do otherwise would leave the equipment lessors in the totally untenable position of having to pay rising fuel prices without any opportunity to recover the higher costs from those who employ their equipment and services. The eventual result, as illustrated in the recent past, would be that the independent trucker—a recognized small businessman—is forced out of the business and all segments of the public suffer.

Arguments to the effect that adoption of the proposed modification will interfere with the financial stability of certain carrier-lessees appear to have little merit. This is because carriers are free, but are not required, to lease equipment. Moreover, the situation, as we foresee it, is not unlike those in the past in which carriers have had to face many other increases in their operating costs. Meeting payrolls, for example, which continue to represent a higher proportion of the expense dollar as compared to fuel costs, has presented no insurmountable problems for most carriers when new labor contracts call for increased wages and fringe benefits. In addition, the expedited procedures for filing for rate surcharges to reflect increased fuel costs (even though, as stated by certain carrier respondents here, those surcharges involve additional clerical and other expenses to the carrier which may not be recouped thereunder) would appear generally, although certainly not in all instances, to provide carriers with a means for quickly restoring a measure of normality to their respective cash-flow patterns. Faithful compliance with this Commission's existing credit regulations (49 CFR Part 1322) and use of the expedited surcharge as well as our standard rate increase procedures undoubtedly would place carriers in a reasonably tolerable situation during this critical period of time.

*Settlement of disputes and enforcement difficulties.* The rule of reason should apply to the settlement of disputes over compensation to be paid for leased equipment. Owner-operators' claims for funds should be handled in the fashion that normally has prevailed in the past. Carrier-lessees should not be allowed improperly to withhold compensation including surcharges and fuel-cost adjustment amounts. Except where prevailing practices have been otherwise, settlement should reflect closely the time required in the past for settling accounts, the time within which the carrier-lessee receives payment of its charge from shippers and receivers (in compliance with existing credit regulations), and a reasonable but short period of time for allowing computation to be made and other administrative functions to be performed.

Enforcement difficulties do not appear to be insurmountable. Complaints of owner-operators will of course, reflect upon the fitness of carrier-lessees to the extent that they prove to be valid. Some of the other avenues available to enforce strict compliance with the regulations adopted in this proceeding include inspection of or reference to such things as: (a) Carriers' accounts and records, including copies of fuel purchase receipts and equipment leases; (b) drivers' daily logs; (c) information developed in investigations of fuel-pricing by the Internal Revenue Service; (d) data compiled by the Cost of Living Council; (e) records of State ports of entry and other State departments or agencies responsible for the collection of fuel taxes; and (f) records of other carriers for fuel purchases at specific vending points.

In the event of abusive practices on the part of lessors of equipment over whom we have no direct regulatory authority, no new problems of an insurmountable nature are foreseen. This Commission will continue to require lessees whom we regulate to have the responsibility to audit their cost data which may be filed with this Commission to support proposed rate increases. And, as noted earlier, carriers would seem to have sufficient economic motivation to question bills submitted to them for seemingly inflated fuel costs.

*Exemptions.* The Household Goods Carriers' Bureau and Movers' & Warehousemen's Association of America, Inc., ask on behalf of their members, that because of the unique status of owner-operators in the field of household goods transportation the proposed rule should not be applied to movers. They point out that present regulations contain special provisions recognizing the peculiarities of operations of household goods carriers and that these latter peculiarities, coupled with the asserted fact that independent owner-operators now share increased revenue which will be adequate to meet rising fuel costs, justify so limiting the application of the proposed rule.

To the extent that these arguments are based on rate increases that have been filed since May 15, 1973, they are not unlike those of other respondents participating in this proceeding. They have been taken fully into account in drafting the regulation here finally adopted. We must disagree, however, with

the movers' contention that the peculiarities of their operations warrant an exemption. It is true, of course, that movers of household goods do provide a unique type of service. But many other specialized carriers do also. These carriers' unique character does not extend to fuel consumption and the price of fuel recently has risen sharply. This would appear to have placed all owner-operators in an inequitable position. Inasmuch as righting this inequity is the basic thrust of the rule adopted herein, the movers' request for exclusion is denied.

We also find without merit the request by National Automobile Transporters Association for a specific provision stating that the proposed rule does not apply when the terms of leases are mutually agreed upon and when owner-operators are not involved. The sought relief would appear to add yet a further complication to the regulation adopted herein without serving any real purpose. Previous decisions of this Commission have recognized that automobile transporters experience wide fluctuations in traffic throughout the year; that such carriers have found it advantageous to meet these fluctuating requirements by leasing equipment with drivers from other such motor carriers; and that this practice keeps experienced driver personnel busy during slack periods and aids the carriers in meeting peak service demands which vary among carriers. Lease and Interchange of Vehicles by Motor Carriers, 64 M.C.C. 361, 370 (1955). Thus, the fuel-cost adjustments provided for in the rule adopted herein will tend to even themselves out among the carriers and no need appears for the requested exemptions.

*Effective and termination dates.* We earlier observed that Public Law 93-249 calls for the order entered herein to be "made effective not later than February 15, 1974." Accordingly, all transportation provided on and after the date with leased equipment by motor common and contract carriers of property subject to part II of the Interstate Commerce Act should be governed by our lease and interchange regulations as modified in this proceeding. And all compensation paid by carriers for leased equipment operated on and after that date should be increased in accordance therewith. This will preclude the possibility of any retroactive effect being given the adopted regulation, as feared by a number of those submitting comments in this proceeding. At this time we foresee no need for further legislative action to either expressly adopt the regulation herein promulgated or to bar judicial review thereof, as suggested by PROD, an organization of independent truckers.

Several participants in this proceeding urge that any regulation adopted herein should have a fixed termination date. It ought to be noted here that the special energy procedures for the filing of fuel-cost rate increases in the form of percentage surcharges reflect, with respect to motor common carriers, a change in this Commission's position on the matter of termination dates. Moreover, the notice and order instituting this proceeding clearly indicates that present information points to the fact that the energy shortage is, in all likelihood, an ongoing problem. Arbitrarily selecting a termination date would therefore serve no valid purpose at this time. Furthermore, the fuel adjustment proposed is closely allied to the special permission procedures now available to carriers. Inasmuch as the regulations governing the lease of equipment and the special permission order are subject to our further order, no termination date need be fixed at this time for the proposed modification.

*Environmental impact.* One of the points raised by Wilson Freight Company in its representation is that adoption of the proposed rule will have an adverse impact upon the quality of the human environment if the fuel surcharge is not provided as an alternative for changing lease rental obligations. Wilson's position is based on the assumption that collective bargaining agreements in all probability will have to be renegotiated and that this is likely to cause transportation to be disrupted on a broader scale than has been the case to date. The result, it says, will have an adverse economical and environmental impact.

We cannot agree with Wilson's argument. Rather, we share the view expressed by the Bureau of Enforcement that adoption of the proposed rule, or a modified version of it, should prove to have a favorable, though insignificant, impact upon the quality of the environment. Leasing of equipment by regulated motor carriers long has provided the industry with a flexible capability that has contributed not only to the industry's ability to respond to changing public needs, but also to reduce transportation capacity during periods of reduced demand. The proposed rule is intended to serve the interests of equipment lessees so that this transportation resource will be preserved and the efficiencies and economies inherent in it will continue to be available for public benefit. Rather than being disruptive of transportation service and commerce, our announcement of a proposed rule requiring an adjustment in compensation to reflect increased fuel costs contributed at least in part to the resumption of motor transportation earlier this month. Accordingly, we conclude that this is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

## CONCLUSION

Based on the foregoing discussion we are persuaded that adoption of a modification in our regulations governing the lease of equipment so as to provide for an appropriate fuel adjustment is required at this time. The numerous and virgorous comments submitted in this proceeding by all interested parties, coupled with the many interrelated considerations we have touched upon in this order, convince us that some rephrasing of the proposed regulation is necessary in order to remedy what is today an inequitable situation without at the same time creating or causing further inequities in our national system of transportation. Accordingly, the proposed rule will be rephrased to read as set forth in the ordering paragraph below.

Wherefore and good cause appearing therefor:

*It is ordered,* That part 1057 of Subchapter A to Chapter X, of Title 49 of the Code of Federal Regulations be, and it is hereby, modified by adding the following new sentences at the end of paragraph (a)(5) of § 1057.4:

§ 1057.4 Augmenting equipment.

(a) * * *

(5) * * * Subject to the exemption provisions of paragraph (a)(3)(i) of § 1057.4, and except to the extent that amounts paid for the same operations to the lessor in the form of specific fuel cost adjustments pursuant to the provisions of the Interstate Commerce Commission's Special Permission Order No. 74-2525, entered February 7, 1974, and modified February 8, 1974, or designated surcharge procedures, compensation paid by the lessee shall, on and after February 15, 1974, be increased by an amount equal to the increased costs of fuel purchased at lawful prices and borne by the lessor, provided the lessor is responsible for supplying the fuel consumed in operations conducted under the lease. The amount of such increase shall be: (i) Added to the compensation paid the lessor for the leased equipment; and (ii) computed by: (A) Subtracting from the lawful prices actually paid or to be paid by the lessor (and authenticated by him by presentation to the lessee of valid receipts for fuel actually purchased) and consumed in the operations for which the equipment is leased, the lawful price paid by the lessor of the same type of fuel in effect on May 15, 1973, provided fuel was purchased by him on that date; and (B) reducing such difference by any amounts as are paid for the same operations to the lessor in the form of specific fuel-cost adjustments resulting from increases in the carriers' rates or charges obtained subsequent to May 15, 1973. In the event fuel was not purchased by the lessor on May 15, 1973, the purchase date to be used in lieu thereof for the computations required in (ii) above shall be: (a) The date of the purchase of fuel last preceding May 15, 1973; or, (b) if the equipment was first leased on a date subsequent to May 15, 1973, the date of the lessor's first purchase of fuel for operations conducted under a leasing arrangement.

*It is further ordered,* That all motor common and contract carriers subject to part II of the Interstate Commerce Act, respondents herein, be, and they are hereby, notified and required to modify their contracts, leases, or other arrangements pertaining to the lease of equipment so as to conform them to the regulations adopted above.

*It is further ordered,* That the rules herein prescribed be, and they are hereby, prescribed to become effective on February 15, 1974, and will apply on all

leases of equipment as set forth therein on and after the said effective date.

*And it is further ordered,* That this proceeding be, and it is hereby, discontinued.

(49 Stat. 543, as amended, and 70 Stat. 983)

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

APPENDIX

The names of those who filed representations in this proceeding are listed below. Names indented are those of participants who filed joint statements with parties listed immediately above them.

Ace Lines, Inc.
  Decker Truck Line, Inc.
  Machinery Haulers Association
  Mallinger Truck Line, Inc.
  Mid Seven Transportation Company, Inc.
  The Mickow Corporation
  Umthun Trucking Co.
Alleghany Corporation, doing business as Jones Motor
Alterman Transport Lines, Inc.
American Transport, Inc.
  Boat Transit, Inc.
  Columbine Carriers, Inc.
  Condor Contract Carriers, Inc.
  Continental Contract Carrier Corp.
  Curtis, Inc.
  Denver Southwest Express, Inc.
  Hilt Truck Line, Inc.
  Huston Truck Line, Inc.
  Independent Transportation, Inc.
  Interstate Contract Carrier Corporation
  Jay Lines, Inc.
  Jo/Kel, Inc.
  Momsen Trucking Co.
  National Carriers, Inc.
  National Trailer Convoy, Inc.
  Unzicker Trucking, Inc.
  W. J. Digby, Inc.
American Trucking Associations, Inc.
Arkansas Best Freight System, Inc.
  Associated Transport, Inc.
  Gateway Transportation Co., Inc.
  Hennis Freight Lines, Inc.
  Johnson Bros. Truckers, Inc.
  Mason and Dixon Lines, Inc.
  McLean Trucking Company
  Ryder Truck Lines, Inc.
Arrow Truck Lines, Inc.
Baggett Transportation Company
Belford Trucking Co., Inc.
Bray Lines, Incorporated
Bureau of Enforcement, Interstate Commerce Commission
Cartwright Van Lines, Inc.
Common Carrier Conference — Irregular-Route
Caravan Refrigerated Cargo, Inc.
Certain-Teed Products Corporation
C & H Transportation Co., Inc.
  F-B Truck Line Co.
  Ligon Specialized Hauler, Inc.
  Miller Transfer & Rigging Co.
  E. L. Murphy Trucking Co.
  Belger Cartage Service, Inc.
  Hunt Transportation
  Underwood Machinery Transport, Inc.
  Diamond Transportation
  International Transport, Inc.
  Ace Lines, Inc.
  Wales Transportation, Inc.
  Warren Transportation, Inc.
  Interstate Contract Carrier
  Eck Miller Transportation Corporation
  Home Transportation Company
  A. J. Metler Hauling & Rigging, Inc.
  Superior Trucking Co., Inc.
  Artim Transportation System, Inc., Operator of the Glenn Cartage Company
  R. J. Jeffries Trucking Co., Inc.
  Parkhill Truck Company
    Colonial Refrigerated Inc.
  Colonial Refrigerated Transportation Inc.
  Central Transport, Inc.
  Quality Carriers, Inc.
  Beaver Transport, Co.
  Subler Transfer, Inc.
  Coldway Food Express, Inc.
  Riggs Food Express, Inc.
  Truck Transport, Inc.
  Henry Zellmer
  Orbit Transport, Inc.
  Norbet Trucking Corp.
  Winston Carriers, Inc.
  Emprise Trucking Inc.
  Interstate Roadrunner, Inc.
  Lott Motor Lines, Inc.
  Fredonia Express, Inc.
  Gregory Heavy Haulers, Inc.
Colorado Meat Dealers Association
Contract Carrier Conference
Crete Carrier Corp.
Daily Express, Inc.
  Shaffer Trucking Inc.
Deaton, Inc.
Eagle Motor Lines, Inc.
Eagle Trucking Company
Eazor Express
Frozen Food Express, Inc.
Hahn Truck Line, Inc.
Heavy-Specialized Carriers Conference
Household Goods Carrier's Bureau
International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers
Interstate Motor Freight System
  Brada Miller Freight System, Inc.
Kraft Foods Division of Kraftco Corporation
Leonard Bros. Trucking Co., Inc.
Lightning Express, Inc.
  Augie Passieu Trucking, Inc.
  B & P Motor Express, Inc.
  Blairsville Transport, Inc.
  Bond Transport, Inc.
  Carroll Transport, Inc.
  Ed Werner-Donaldson Transfer & Storage Co.
  Edward W. Chadderton t/d/b/a/Ed Chadderton Trucking
  H. L. Draper Trucking, Inc.
  J. Miller Express, Inc.
  John F. Scott Company
  Peerless Transport Corp.
  Robert Cole Trucking Company
  Standard Motor Freight, Inc.
  Suwak Trucking Company
  Werner Continental, Inc.
  W. S. Thomas Transfer, Inc.
Midwest Emery Freight Systems, Inc.
Midwestern Dist. Inc.
Movers' & Warehousemen's Association of America, Inc.
Movers Round Table
National Automobile Transporters Association
National Industrial Traffic League
National Steel Carriers Association
National Tank Truck Carriers, Inc.
Prod, Inc.
Prunty Motor Express, Inc.
  Case Driveway, Inc.
Red Ball, Inc.
Refrigerated Transport, Co., Inc.
  Clay Hyder Trucking Lines, Inc.
  Florida Refrigerated Service, Inc.
  Hurliman Trucking Company, Inc.
  J & M Transportation Co., Inc.
  Watkins-Carolina Express, Inc.
  Watkins Motor Lines, Inc.
Steel Carriers Conference, Inc.
Steel Carriers Tariff Association, Inc.
Swift & Company
Tower Lines, Inc.
Trans-Cold Express, Inc.
Wilson Freight Company

[FR Doc.74-4024 Filed 2-19-74;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Amagansett National Wildlife Refuge, New York

The following special regulation is issued and is effective during the period February 15, 1974 through December 31, 1974.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW YORK

AMAGANSETT NATIONAL WILDLIFE REFUGE

Foot access along the refuge beachfront is permitted during daylight hours for the purpose of nature study, photography, and shell collecting. Interior access beyond the beachfront for the purpose of environmental education studies is permitted by Special Use Permit on a reservation basis. Permits may be obtained from the Refuge Manager, Target Rock National Wildlife Refuge, Target Rock Road, Lloyd Neck, Huntington, Long Island, New York 11743, or the Refuge Manager, Morton National Wildlife Refuge, R.D. 359, Noyac Road, Sag Harbor, Long Island, New York 11963. The use of motorized vehicles on the refuge is not permitted. Parking is limited to designated Town of East Hampton parking areas in accordance with town regulations. Pets are not permitted on the refuge.

The refuge, comprising 35.8 acres, is delineated on a map available from the Refuge Manager, Target Rock National Wildlife Refuge, Target Rock Road, Lloyd Neck, Huntington, Long Island, New York 11743, or from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

FEBRUARY 8, 1974.

[FR Doc.74-3931 Filed 2-19-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Brigantine National Wildlife Refuge, New Jersey

The following special regulations are issued and are effective during the period February 15, 1974 through December 31, 1974.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW JERSEY

BRIGANTINE NATIONAL WILDLIFE REFUGE

Foot and vehicular access is permitted on designated travel routes during daylight hours, for the purposes of nature study, wildlife observation, photography and hiking. The refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Pets are allowed if on a leash not exceeding 10 feet in length.

Refuge public use areas, comprising more than 19,385 acres, and respective permissible activities, are designated on maps available at refuge headquarters, Oceanville, New Jersey or from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, as set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

FEBRUARY 8, 1974.

[FR Doc.74-3929 Filed 2-19-74;8:45 am]

## PART 33—SPORT FISHING

### Brigantine National Wildlife Refuge, New Jersey

The following special regulations are issued and are effective during the period February 15, 1974 through December 31, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW JERSEY

BRIGANTINE NATIONAL WILDLIFE REFUGE

Saltwater sport fishing is permitted from the beach on Holgate Peninsula and Little Beach Island, except from those areas posted as closed.

Freshwater sport fishing from the South Dike of the West Pool is permitted during daylight hours from July 20 through September 21, 1974. The possession of fish or minnows for use as bait is not permitted. Freshwater fishermen may park at the headquarters and South Tower parking areas only.

Sport fishing shall be in accordance with all applicable State regulations.

Areas open to sport fishing, comprising 7.5 miles of tidal shoreline and one mile of freshwater shoreline, are delineated on maps available at refuge headquarters, Oceanville, New Jersey or from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, as set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

FEBRUARY 8, 1974.

[FR Doc.74-3928 Filed 2-19-74;8:45 am]

## PART 33—SPORT FISHING

### Certain Wildlife Refuges

The following special regulations are issued and are effective on February 15, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ALABAMA

CHOCTAW NATIONAL WILDLIFE REFUGE

Sport fishing on the Choctaw National Wildlife Refuge, Jackson, Alabama, is permitted only on the areas designated by signs as open to fishing. These open areas are shown on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season is open year-round on all refuge waters except those posted as closed by signs.

(2) Fishing is permitted during daylight hours only.

ARKANSAS

WHITE RIVER NATIONAL WILDLIFE REFUGE

Sport fishing on the White River National Wildlife Refuge, DeWitt, Arkansas, is permitted only on the areas designated by signs as open to fishing. These open areas comprising 2,592 acres are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from March 16, 1974, through October 31, 1974.

(2) Boats without owner's name plate affixed in a conspicuous place may not be left overnight.

(3) Taking of frogs is prohibited.

(4) All fishermen must exhibit their fishing license, fish, and vehicle and boat contents to Federal and State officers upon request.

(5) It is unlawful to fail to run trotlines every 24 hours and remove catch therefrom. Lines not being properly tended shall be confiscated and removed from the water.

LOUISIANA

DELTA NATIONAL WILDLIFE REFUGE

Sport fishing and sport shrimping on the Delta National Wildlife Refuge, Venice, Louisiana, are permitted only on the areas designated by signs as open to fishing. These open areas, comprising approximately 48,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE, Atlanta, Georgia 30329. Sport fishing and sport shrimping shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing and sport shrimping season on the refuge shall be closed during the waterfowl hunting season.

(2) Fishing and shrimping permitted during daylight hours only.

(3) Sport shrimp trawls are restricted to a maximum of 25 feet.

(4) Air-thrust boats are prohibited.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Sport fishing on the Noxubee National Wildlife Refuge, Brooksville, Mississippi, is permitted on all refuge waters not specifically posted as closed to entry. These open areas, comprising 2,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE, Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on the refuge extends from March 1 through October 31, 1974.

(2) Fishing permitted during daylight hours only.

(3) A daily permit (50 cents) is required by the Mississippi Game and Fish Commission to fish in Bluff and Loakfoma Lakes and tailwaters of the spillways.

(4) No limb lines or limb hooks are permitted in Bluff and Loakfoma Lakes.

(5) All trotlines will be removed from the refuge by the close of the refuge fishing season.

(6) Private boats may not be left overnight on the refuge.

(7) No snag lines permitted.

TENNESSEE

HATCHIE NATIONAL WILDLIFE REFUGE

Sport fishing on the Hatchie National Wildlife Refuge, Brownsville, Tennessee, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 100 acres, are delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive, NE, Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge extends from April 1, 1974, through November 14, 1974.

(2) Fishing permitted during daylight hours only.

(3) Boats powered with electric outboard motors are permitted. Gasoline outboard motors are prohibited.

(4) Methods of fishing are limited to pole and line or rod and reel, using natural or artificial bait.

(5) Vehicles may be used on refuge roads and trails to reach fishing area.

(6) Footpaths may be used to reach all lakes from Hatchie River.

(7) Firearms prohibited.

(8) Boats must be removed from refuge no later than November 30.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sports Fisheries and Wildlife.*

FEBRUARY 6, 1974.

[FR Doc.74-3926 Filed 2-19-74;8:45 am]

## PART 28—PUBLIC ACCESS, USE, AND RECREATION

### Mackay Island National Wildlife Refuge, North Carolina and Virginia

The following special regulations are issued and are effective during the period from February 15, 1974 through December 31, 1974.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NORTH CAROLINA AND VIRGINIA

MACKAY ISLAND NATIONAL WILDLIFE REFUGE

Entry on foot, bicycle, or by motor vehicle is permitted during daylight hours on designated travel routes for the purpose of nature study, photography, and hiking. Entrance by boat into the refuge during daylight hours is permitted for the above purposes only from May 1 through October 18. Pets on a leash not exceeding 10 feet in length are permitted.

The refuge, comprising 6,974 acres, is delineated on a map available from the Refuge Manager, Back Bay National Wildlife Refuge, Pembroke #2 Bldg., Suite 218, 287 Pembroke Office Park, Virginia Beach, Virginia 23462 or from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

FEBRUARY 8, 1974.

[FR Doc.74-3930 Filed 2-19-74;8:45 am]

## PART 33—SPORT FISHING

### Prime Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period February 15, 1974 through December 31, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in accordance with all applicable State regulations. Boats, with or without motors, are permitted for fishing freshwater streams and ponds. Boats may be launched from designated access points or public roads.

The refuge is delineated on maps available at refuge headquarters or from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

FEBRUARY 8, 1974.

[FR Doc.74-3927 Filed 2-19-74;8:45 am]

## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

### Pay Adjustments Affecting Employees in the Food Industry

Part 152 is amended in Subpart H to make certain interpretive changes in the special rules applicable to the food industry.

Section 152.72 is amended by adding a new paragraph (d) to make clear that "pay adjustments affecting employees in the food industry" does not include pay adjustments with respect to employees in an appropriate employee unit in which more than 50 percent of the employees were primarily engaged on January 10, 1973, in the operation of an establishment classified under Standard Industrial Classification Code 3411 (Metal Cans and Shipping Containers), 3466 (Crowns and Closures), or 2655 (Fiber Cans, Tubes, Drums, Similar Products). The effect of this amendment is to clarify the fact that pay adjustments to employees described therein are covered by Subpart B of Part 152, Pay Adjustments Subject to Voluntary Controls.

Because the immediate implementation of Executive Order No. 11730 is required, and because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rule making procedures is impractible and that good cause exists for making these amendments effective in less than 30 days. Interested persons may submit comments regarding these amendments. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

This amendment is effective January 11, 1973.

Issued in Washington, D.C., February 14, 1974.

JAMES W. MCLANE,
*Deputy Director, Cost of Living Council.*

Section 152.72 is amended by adding new paragraph (d) as follows:

§ 152.72 Pay adjustments affecting employees in the food industry.

* * * * *

(d) For purposes of paragraph (b) of this section, "Pay adjustments affecting employees in the food industry" does not include pay adjustments with respect to employees who are members of an appropriate employee unit in which more than 50 percent of the employees, on January 10, 1973, were engaged primarily in the operation of an establishment classified under Standard Industrial Classification Code 3411 (Metal Cans and Shipping Containers), 3466 (Crowns and Closures); or 2655 (Fiber Cans, Tubes, Drums, Similar Products).

[FR Doc.74-4021 Filed 2-15-74;9:51 am]

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

### Ferrous Scrap and Ferroalloy Scrap Exemption

The purpose of this amendment is to provide a full exemption for prices charged for all scrap metal under the Phase IV price regulations.

Obsolete scrap, that scrap which is an unprocessed used product, has been exempt since the beginning of the Phase IV program, 6 CFR 150.54(c). Section 150.54(p), as it currently stands, exempts copper scrap and copper based alloy scrap and § 150.54(v) exempts nonferrous scrap and nonferrous alloy scrap.

Prompt and processed obsolete ferrous scrap and ferroalloy scrap were the only metal scraps not subject to an exemption. The Cost of Living Council has determined that it is now appropriate to provide an exemption for ferrous and ferroalloy scraps. The Council takes this action because a large portion of these

scrap metals are sold to the ultimate consumer by firms which are exempt from price regulations because they have 60 or fewer employees. Thus a number of marketing and pricing distortions have arisen; the most important of which was the development of a two-tiered price structure. As the gap between the controlled price and the market price for producer scrap (prompt scrap) widened in recent weeks, firms have chosen not to sell to outside customers, but to ship to other plants for intra-firm uses. Not only has this reduced supplies by the amount in transit but it has also created pricing distortions within market areas. This exemption will put all sellers of scrap on an equal footing.

To the extent this amendment is inconsistent with Cost of Living Council Phase IV Price Rulings 1973–2, 1973–15, 1973–18, and 1973–21, those rulings are superseded.

Under §§ 150.11(e) and 150.161(b), a firm remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless in its most recent fiscal year it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90 percent or more of its sales and revenues from the sale of exempt items or exempt sales.

The Council retains the authority to reestablish price controls over any of the industries exempted by this amendment if price behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the power, under § 150.162, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of this amendment is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that the publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth herein, effective February 15, 1974.

Issued in Washington, D.C., on February 15, 1974.

JAMES W. MCLANE,
*Deputy Director,*
*Cost of Living Council.*

In 6 CFR Part 150, § 150.54(p) is amended to read as follows:

§ 150.54 *Certain price adjustments.*

* * * * *

(p) *Scrap metals.* Prices charged for prompt metal scrap and processed obsolete metal scrap are exempt.

* * * * *

[FR Doc.74–4139 Filed 2–15–74;5:14 pm]

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

## PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

### Exemption of Nonrubber Footwear

The purpose of this amendment is to exempt nonrubber footwear from Phase IV price regulations and to add a parallel exemption under the Phase IV pay regulations.

The price exemption extends to prices charged by manufacturers for the products as listed in Group No. 314, which includes Industry Nos. 3142, 3143, 3144 and 3149 of the Standard Industrial Classification Manual, 1972 edition. The affected products include men's and women's footwear, house slippers, athletic shoes, and miscellaneous nonrubber footwear.

The Council's action in exempting the above products was preceded by individual discussions with the four largest firms in the nonrubber shoe industry, Brown Shoe Company, United States Shoe Corporation, Interco Inc. and Genesco Corporation. These firms account for about 26 percent of industry sales. As a result of these discussions, these firms have agreed to limit wholesale price increases for nonrubber footwear through September 1, 1974 to a weighted average of no more than 2 percent above currently authorized levels. In addition, the firms agreed to continue to maintain wage and salary increases in a manner generally consistent with the regulations of the Economic Stabilization Program.

The separate agreements reached between the Council and the four largest firms are expected to be sufficient to restrain prices in general. Strong competition, both from imports and among the U.S. producers, should act to restrain prices for the industry overall, even in the face of sharply rising costs. Furthermore because the firms with whom the Council has agreements are the natural price leaders for the industry, it is expected that smaller firms will also be restrained from implementing inflationary price increases.

In developing the list of items, the sale of which is exempt under these amendments, the Council relied on the SIC Manual system. Only the sale by the manufacturer of the specific items listed in the amendment to § 150.54 is exempt. Other items which may be generally similar but are not listed do not come within the scope of these amendments.

Under §§ 150.11(e) and 150.161(g), a firm remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless in its most recent fiscal year it derived both less than $50 million in annual sales or revenues from the sale or lease of nonexempt items and 90 percent or more of its sales and revenues from the sale of exempt items or exempt sales.

As a complementary action to the exemption from price controls, the Council has also exempted pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the nonrubber footwear manufacturing industry. The exemption is set forth in new § 152.401. The exemption is inapplicable to any such employee who receives an item of incentive compensation, or who is a member of an executive control group. The exemption is also inapplicable to any such employee whose duties and responsibilities are not of a type exclusively performed in or related to the nonrubber footwear manufacturing industry and whose pay adjustments are historically related to the pay adjustments of employees performing such duties outside the industry and are not related to the pay adjustments of other employees that are within the exemption. The exemption is further inapplicable to employees who are part of an appropriate employee unit where 25% or more of the members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the shoe manufacturing industry or in support thereof. In cases of uncertainty of application, inquiries concerning the scope or coverage of the wage exemption should be addressed to the Administrator, Office of Wage Stabilization, P.O. Box 672, Washington, D.C. 20044.

The Council retains the authority to reestablish price and wage controls over any of the industries exempted by these amendments if price or wage behavior is inconsistent with the policies of the Economic Stabilization Program. The Council also has the power, under §§ 150.162 and 152.6, to require firms to file special or separate reports setting forth information relating to the Economic Stabilization Program in addition to any other reports which may be required under the Phase IV controls program.

Because the purpose of these amendments is to grant an immediate exemption from the Phase IV price and pay regulations, the Council finds that publication in accordance with normal rule making procedure is impractical and that good cause exists for making this amendment effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–23, 87 Stat. 27; E.O. 11730; 38 FR 19345, Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Parts 150 and 152 of Title 6 of the Code of Federal Regulations are amended as set forth herein effective February 15, 1974.

Issued in Washington, D.C., on February 15, 1974.

JAMES W. MCLANE,
*Deputy Director,*
*Cost of Living Council.*

1. In 6 CFR Part 150, § 150.54 is amended to add a new paragraph (nn) to read as follows:

**§ 150.54 Certain price adjustments.**

* * * * *

(nn) *Nonrubber Footwear.* The prices which manufacturers of the following products charge for those products are exempt: Nonrubber footwear products listed in the SIC Manual, 1972 edition, in Group No. 314.

2. In 6 CFR Part 152, Subpart D is amended by adding thereto a new § 152.40i to read as follows:

**§ 152.40i Shoe manufacturing industry.**

(a) *Exemption.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in the shoe manufacturing industry or in support of such operation are exempt from and not limited by the provisions of this title.

(b) *Establishment in the shoe manufacturing industry.* For purposes of this section, "Establishment in the shoe manufacturing industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Group Number 314 (Footwear, Except Rubber) which is primarily engaged in the manufacture of any product described under such Group Number.

(c) *Covered employees.* For purposes of this section, an employee is considered to be engaged on a regular and continuing basis in the operation of an establishment in the shoe manufacturing industry or in support of such operation only if such employee is employed at an establishment in the shoe manufacturing industry and only if such employee is employed by the firm which operates such establishment.

(d) *Limitation.* The exemption provided in paragraph (a) of this section shall not be applicable to—

(1) An employee who receives an item of incentive compensation subject to the provisions of §§ 152.124, 152.125, or 152.126.

(2) An employee who is a member of an executive control group (determined pursuant to § 152.130).

(3) Employees whose occupational duties and responsibilities are of a type not exclusively performed in or related to the shoe manufacturing industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the shoe manufacturing industry; and

(ii) Not related to pay adjustments of another unit of employees engaged on a regular and continuing basis in the operation of an establishment in the shoe manufacturing industry or in support of such operation within the meaning of paragraph (c) of this section.

(4) Employees who are members of an appropriate employee unit if 25 percent or more of the employees who are members of such unit are not engaged on a regular and continuing basis in the operation of an establishment in the shoe manufacturing industry or in support of such operation.

(e) *Effective date.* The exemption provided in this section shall be applicable to pay adjustments with respect to work performed on and after February 15, 1974.

[FR Doc.74-4140 Filed 2-15-74;5:15 pm]

## Title 10—Energy

## CHAPTER II—FEDERAL ENERGY OFFICE

## FUEL ALLOCATION AND PRICING

### Miscellaneous Amendments

The amendments and revisions published herein are designed to correct omissions and clerical errors in Parts 205, 210, 211 and 212 of the Federal Energy Office regulations published on January 15, 1974 (39 FR 1924). As part of these corrections, the addresses for Regional offices of FEO are updated in § 205.12. A new paragraph (c) is added to § 210.62 to classify certain business practices as illegal circumventions of the regulations set forth in Parts 211 and 212. This paragraph was inadvertently omitted when the Cost of Living Council Petroleum Price regulations were recodified in Title 10. A definition of "octane number" which had also been inadvertently omitted from Part 212 is added to § 212.31.

Because the purpose of these amendments is to provide technical corrections to FEO regulations, the FEO finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these amendments and revisions effective upon publication.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748, 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 47, 39 FR 24)

In consideration of the foregoing, Parts 205, 210, 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended and revised as set out herein, effective 11:59 p.m., January 14, 1974.

Issued in Washington, D.C., on February 15, 1974.

WILLIAM N. WALKER,
*General Counsel,*
*Federal Energy Office.*

## PART 205—ADMINISTRATIVE PROCEDURES

1. Paragraph (f) of § 205.8 to read as follows:

**§ 205.8 Subpoenas; witness fees.**

* * * * *

(f) In case of refusal to obey a subpoena served upon any person under the provisions of this part, the FEO may request the Attorney General to seek the aid of the District Court of the United States for the district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents, or both.

2. Paragraph (b) of § 205.12 is revised to read as follows:

**§ 205.12 Addresses for filing documents with the FEO.**

* * * * *

(b) All petitions, appeals, complaints and reports submitted to the Regional Office should be directed to the following address, as appropriate:

REGION 1

Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut; Regional Office, FEO, 150 Causeway Street, Boston, Mass. 02114.

REGION 2

New York, New Jersey, Virgin Islands, Puerto Rico; Regional Office, FEO, 26 Federal Plaza, New York, N.Y. 10007.

REGION 3

Pennsylvania, Delaware, Virginia, West Virginia, Maryland, District of Columbia; Regional Office, FEO, Federal Office Building, 1421 Cherry Street, Philadelphia, Pa. 19102.

REGION 4

North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Canal Zone; Regional Office, FEO, 1720 Peachtree St., N.W., Atlanta, Georgia 30309.

REGION 5

Michigan, Illinois, Wisconsin, Minnesota, Indiana, Ohio; Regional Office, FEO, 175 West Jackson St., Chicago, Ill. 60604.

REGION 6

Texas, Louisiana, Arkansas, Oklahoma, New Mexico; Regional Office, FEO, 212 North Saint Paul St., Dallas, Tex. 75201.

REGION 7

Iowa, Nebraska, Missouri, Kansas; Regional Office, FEO, Federal Office Bldg., 811 Grand Street, Kansas City, Missouri 64106.

REGION 8

Montana, Wyoming, North Dakota, South Dakota, Colorado, Utah; Regional Office, FEO, 645 Parfet Street, Denver, Colorado 80225.

REGION 9

California, Nevada, Arizona, Hawaii, American Samoa, Guam, Trust Territory of the Pacific Islands; Regional Office, FEO, Fox Plaza Bldg., 1390 Market Street, San Francisco, California 94102.

REGION 10

Washington, Alaska, Oregon, Idaho; Regional Office, FEO, Federal Office Bldg., 909 First Ave., Room 3098, Seattle, Wash. 98104.

3. Paragraph (a) of § 205.13 is revised to read as follows:

**§ 205.13 Where to file.**

(a) Except as otherwise specifically provided, documents which may be filed with FEO by suppliers or wholesale purchasers pursuant to this part shall be filed with the appropriate Regional Office of FEO except that documents shall be

filed with the National Office of FEO which relate to:

(1) The allocation and pricing of crude oil pursuant to Subpart C of Part 211, and the provisions of Part 212 of this chapter.

(2) Refinery mix controls imposed pursuant to Subpart C of Part 211.

(3) The allocation and pricing of aviation fuel pursuant to Subpart H of Part 211, and the provisions of Part 212 of this chapter, which are filed by civil air carriers and public air carriers.

(4) The allocation and pricing of residual fuel oil pursuant to Subpart I of Part 211, and the provisions of Part 212 of this chapter, which are filed by electrical utilities.

(5) The allocation and pricing of Bunker fuel pursuant to Subpart I of Part 211, and the provisions of Part 212 of this chapter, which are filed by members of the maritime shipping industry.

(6) The allocation and pricing of petrochemical feedstocks pursuant to Subpart J of Part 211, and the provisions of Part 212 of this chapter.

(7) The allocation and pricing of other products pursuant to Subpart K of Part 211, and the provisions of Part 212 of this chapter.

§ 205.2 [Amended]

4. Paragraph (d) of § 205.22 is amended deleting the final word "conversation" and inserting in lieu thereof the word "conversion".

5. Paragraph (i) of § 205.24 is amended to read as follows:

§ 205.24 FEO criteria.

* * * * *

(i) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

6. Paragraph (b) of § 205.122 is amended to read as follows:

§ 205.122 Initial action by FEO.

* * * * *

(b) When the FEO denies a petition for modification or rescission, in whole or in part, it will serve upon the applicant a copy of its order which will contain a statement of the grounds for denial and advise the applicant that he may file an appeal pursuant to Subpart H of this part.

7. Section 205.165 is revised to read as follows:

§ 205.165 State criteria.

A recommendation by a State that a petition for adjustment or assignment be granted shall be based on the FEO criteria for allocation set forth in § 205.24 of this part.

## PART 210—GENERAL ALLOCATION AND PRICE RULES

8. Section 210.2 is amended to change the time "e.s.t." to read "d.s.t.".

§ 210.31 [Amended]

9. Paragraph (a) of § 210.31 is amended by deleting the final word "title" and inserting in lieu thereof the word "Chapter."

10. Section 210.32 is amended in the definition of "average daily production" and "Stripper well lease" in paragraph (b) to read as follows:

§ 210.32 Stripper well leases.

* * * * *

(b) *Definitions.* * * *

"Average daily production" means the qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

* * * * *

"Stripper well lease" means a "property" whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year.

11. Section 210.33 is amended to read as follows:

§ 210.33 Exports and imports.

Bonded fuels, as defined in Subpart B of Part 211 of this Chapter, are exempt from the provisions of Parts 211 and 212 of this chapter.

12. Section 210.62 is amended by adding a paragraph (c) to read as follows:

§ 210.62 Normal business practices.

* * * * *

(c) Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations. Such practices include, but are not limited to devices making use of inducements, commissions, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, falsification of records, substitution of inferior commodities or failure to provide the same services and equipment previously sold.

13. Section 210.81 is amended as follows:

§ 210.81 Violations.

Any practice which circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of the regulations of this chapter or any order issued pursuant thereto is a violation of the regulations of this chapter.

14. Section 210.82 is amended in paragraph (a) (2) to read as follows:

§ 210.82 Sanctions.

(a) *General.*

* * * * *

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues, there shall be deemed to be a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

## PART 211—MANDATORY PETROLEUM ALLOCATION

15. Paragraph (c) of § 211.1 is amended to read as follows:

§ 211.1 Scope.

* * * * *

(c) *State set-asides.* State set-asides are provided for middle distillates, residual fuel oil, motor gasoline and propane.

16. Section 211.51 is amended in the definitions set forth below to read as follows:

§ 211.51 General definitions.

* * * * *

"Base period" means the historical period designated in Subparts C through K of this part.

"Base period use" means base period volume or adjusted base period volume.

* * * * *

"Independent refiner" means a refiner who (a) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to November 27, 1973, more than 70 percent of his refinery input of domestic crude oil or 70 percent of his refinery input of domestic and imported crude oil from producers who do not control, are not controlled by, and are not under common control with such refiner, and (b) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by him through branded independent marketers or nonbranded independent marketers.

* * * * *

"Local governmental unit" means any county, city, or other political subdivision of a State, and any special purpose district.

"Lubricants" means all grades of lubricating oils for industrial, commercial and automotive use, and lubricating greases which are sold to semifluid products consisting of a dispersion of a thickening agent in a liquid lubricant. This product includes all lubricants reported to the Bureau of Mines, United States Department of Interior as such, with the exception of a product controlled under Subparts other than Subpart K.

* * * * *

17. Section 211.62 is amended in the definition of "Refining capacity" to read as follows:

§ 211.62 Definitions.

* * * * *

"Refining capacity" means, for each refinery, the greater of that capacity reported to the Bureau of Mines as of Jan-

uary 1, 1973, or the actual crude oil runs (on a calendar day average basis) as reported monthly to the Bureau of Mines for January through October, 1973. A refiner who has received a starter allocation under section 25 of the Oil Import Regulations (32A CFR OI Reg. 1–25) and/or who has requested and received certification of his new or incremental refinery capacity from the FEO pertaining to a new refinery, expansion or reactivation subsequent to the January 1, 1973 capacity report to the Bureau of Mines, may elect to have his net new capacity added to the capacity as reported to the Bureau of Mines on January 1, 1973: provided, however, that for the first reporting period, FEO certification shall not be required as provided in § 211.66. Any refiner's capacity which has become inoperable since the January 1973 report to the Bureau of Mines shall be deducted from refinery capacity.

* * * * *

18. Section 211.65 is amended in paragraphs (h) and (j) to read as follows:

§ 211.65 Method of allocation.

* * * * *

(h) Each refiner whose estimate of allocable crude supplies to become available during the calendar quarter would result in a supply/capacity ratio exceeding the FEO's published ratio is required to offer for sale and to sell crude oil to refiner-buyers in amounts sufficient to reduce its supply/capacity ratio to the national supply/capacity ratio.

* * * * *

(j) The volumes on the refiner-buyer and refiner-seller lists shall be modified in a subsequent calendar quarter, by adding or subtracting, as appropriate, the difference between the estimated crude oil runs during the preceding calendar quarter and the actual volumes of crude oil run by refiners during the preceding calendar quarter.

* * * * *

19. Paragraph (a) of § 211.81 is amended to read as follows:

§ 211.81 Scope.

(a) This subpart provides for the allocation of propane and propane-butane mixes produced in or imported into the United States. This subpart does not apply to:

(1) Ethane;

(2) Sales of bottled propane; and

(3) Propane in mixtures of light hydrocarbons produced in a refinery when used in that refinery as other than a feedstock.

20. Section 211.103(a)(2) is revised to read as follows:

§ 211.103 Allocation levels.

(a) * * *

(2) One hundred (100) percent of base period use for all other business activities.

21. Section 211.125 is amended in paragraph (c)(2)(i) to read as follows:

§ 211.125 Method of allocation.

* * * * *

(c) * * *

(2) * * *

(i) Each space-heating end-user shall be entitled to an initial fill-up at its first delivery after these regulations become effective, if sufficient supplies are available.

---

## PART 212—MANDATORY PETROLEUM PRICING REGULATIONS

22. Section 212.1 is amended by revising paragraph (b) to read as follows:

§ 212.1 Scope.

* * * * *

(b) The price rules of the Economic Stabilization Program, Title 6 of the Code of Federal Regulations, remain effective until 11:59 p.m., d.s.t., January 14, 1974 with respect to sales of covered products and the leasing of real property used in the retailing of gasoline.

23. Section 212.31 is amended by adding, in the appropriate alphabetical order, a definition of "Octane number" which reads as follows:

§ 212.31 Definitions.

* * * * *

"Octane number" means the octane number derived from the sum of Research (R) and Motor (M) octane numbers divided by two (R+M)/2. The research octane (R) and motor octane number (M) shall be as described in the American Society for Testing and Materials (ASTM) "Standard Specifications for Gasoline" D439–70, and subsequent revisions, and ASTM Test Methods D 2699 and D 2700.

* * * * *

24. Section 212.88 is amended to read as follows:

§ 212.88 Allocated crude pricing.

(a) *Scope.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of this chapter.

(b) *Rule.* Notwithstanding the general rules described in this subpart, the price at which crude oil shall be sold when required in § 211.65 of Part 211 of this chapter, in Districts I–IV during each month shall be the weighted average price of all crude oil delivered to a seller for Districts I–IV, and in District V the weighted average price of all crude oil delivered to a seller for that District, plus a handling fee, equal to 6 percent of each calculated weighted average price, plus any transportation adjustment specified in paragraph (b)(1) of this section, plus a gravity adjustment as specified in paragraph (b)(2) of this section. Each refiner-seller making such a sale shall calculate its price under paragraph (c) of this section, and shall maintain records, which shall be made available to the FEO upon request, listing the volumes and delivered prices of all crude oil delivered to its refineries during each month.

(1) Actual addition transportation expenses incurred to move the crude oil to the purchaser's refinery shall be paid by the purchaser. Actual transportation expenses saved as a result of moving the offered crude oil directly to the purchaser's refinery shall be deducted from the selling price, if customarily included in such price.

(2) Each refiner-seller shall calculate a weighted average gravity (°API) for all crude oil estimated to be delivered to its refineries in Districts I–IV and District V. The gravity differential of crude oil offered for sale and used in calculations under this paragraph shall be the weighted average price plus or minus $0.02 per barrel per API in Districts I–IV and $0.05 per barrel per °API in District V that the crude oil being offered for sale is above or below the weighted average °API of estimated runs of all crude oil for the forthcoming calendar quarter for the refiner-seller in Districts I–IV and V.

(c) *Calculations.* For the purpose of calculating the weighted average delivered price, the delivered cost of all domestic crude oil, at the point of purchase, plus any gathering or trucking allowance, pipeline tariffs, water transportation costs, terminalling costs and exchange differentials paid to deliver the crude oil to the seller's refineries. For imported crude oil, the delivered price shall be the landed cost plus any pipeline tariffs, water transportation costs, terminalling costs, exchange differentials, and including import fees, insurance, duty, and taxes paid to deliver such crude oil to the seller's refineries.

(d) *Allocation of costs.* Each refiner-seller which makes a sale of crude oil under the provisions of § 211.65 of this chapter, may, notwithstanding the provisions of § 212.83(c)(2) of this subpart, increase the measurement of its cost of crude oil calculated in § 212.83(c)(2) and represented by the symbol "A'", by an amount equal to 84 cents per barrel of crude oil sold to comply with the provisions of § 211.65 of this chapter.

(e) *Reflection of costs.* Refiners required to sell crude oil under § 211.65 of this chapter shall be allowed to increase their product prices to reflect increased crude oil costs of all available crude oil prior to making crude oil sales to comply with § 211.65.

25. Section 212.111 is amended by revising paragraph (a)(2) to read as follows:

§ 212.111 New item and lease rule.

(a) *General—New item.*

* * * * *

(2) *New Market.* An item which the firm concerned has previously sold is a new item with respect to its offer for sale or lease to any market to which it did not sell or lease it at any time during the 1-year period immediately preceding the first date on which the firm offers it for sale or lease. For purposes of this section, a "market" is one or more members of any one of the following groups: resellers; retailers; consumers; manufacturers; or service organizations.

[FR Doc.74–4198 Filed 2–19–74;12:12 am]

## PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

### Revision of Refinery Yield Control Program

This revision of the program for refinery product yield in § 211.71 is designed to expand and clarify the nature and extent of that program. The provisions heretofore stated in § 211.71 focused specifically on the output of gasoline as a fraction of all products refined from crude oil. While this revision does not prevent a focus upon a particular product, the FEO has noted declines in other product output which merit similar attention. For this reason, the language of revised § 211.71 addresses any product found to be in short supply, enabling FEO to deal with the range of allocated refined products and residual fuel oils and allowing for adjustments to output levels when necessary.

Specifically the revision provides for the creation—on a refinery basis and on a product basis—of an "adjustment factor" for particular products. An established adjustment factor is subject to modification from time to time. As need arises, FEO will establish and publish the factor, indicating the extent of its applicability. The fraction will be a yardstick for the desired output of the specified refinery product.

As in the prior program the factor may be applied as a maximum, to avert loss of a needed product supply, or as a minimum to assure continued supply of product. The factor will be a percentage adjustment applied to the ratio of barrels of product output to total crude runs to stills, and a base period for the ratio will be established at the time this factor is announced. Refiners may seek FEO approval to combine efforts to meet the specific adjustment factor.

Under the Emergency Petroleum Allocation Act, P.L. 93–159, the FEO may adjust the quantity of crude allocated to refiners in a manner which assures the continuation of historical product mix patterns and the accomplishment of the objectives of the Act. Revised § 211.71, therefore, also authorizes adjustments in the allocated quantities of crude to refiners which meet or fail to meet the adjustment specified under the yield program.

Finally, the provision in the prior regulation relating to exceptions has been deleted since exception requests are all governed by the general rules in Part 205. It should be noted, however, that the FEO will consider as grounds for an exception the fact that under certain circumstances technological problems may preclude a refiner from achieving the specified adjusted percentage yield.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum allocation rules and regulations, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order 47, 39 FR 24 as amended.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., February 19, 1974.

JOHN C. SAWHILL,
*Deputy Administrator,*
*Federal Energy Office.*

1. Section 211.71 is revised to read as follows:

### § 211.71 Mandatory Refinery Yield Control Program.

(a) *Purpose.* The refinery yield control program is designed to require each refiner to utilize available supplies of crude oil in a manner best suited to ensure adequate production levels of refined petroleum products and residual fuel oils which are or may be in short supply, consistent with the objectives of this chapter.

(b) *Scope.* This section applies as specified to the production of refined petroleum products and residual fuel oil from crude oil by each refiner in the United States.

(c) *Product yield controls.*—(1) *Definitions.* As used in this section—

"Adjustment factor" means the percentage established by the FEO by which the base percentage yield of a particular refined petroleum product or residual fuel oil is multiplied to obtain the adjusted percentage yield of that particular product or residual fuel oil.

"Adjusted percentage yield" means the product of the base percentage yield of a particular refined petroleum product or residual fuel oil multiplied by the adjustment factor for that product or residual fuel oil.

"Base percentage yield" means the ratio which the total number of barrels of a particular refined petroleum product or residual fuel oil produced by a refiner during a specified base period bears to the refiner's total crude runs to stills in that base period and expressed as a percentage.

"Crude runs to stills" means the total barrels of refinery input to crude oil distillation units processed by the refiner and measured in accordance with Bureau of Mines form 6–1300–M.

(2) *Adjustment of base percentage yield.* Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the FEO may require refiners to adjust their base percentage yield of that product or residual fuel oil in order to increase the relative output of that product or residual fuel oil in short supply. If the FEO determines that an adjustment to the base percentage yield of a particular refined petroleum product or residual fuel oil is necessary, the FEO shall publish an adjustment factor by which each refiner must multiply its base percentage yield of that product or residual fuel oil to obtain the adjusted percentage yield of that product or residual fuel oil.

(3) *Joint compliance.* Upon approval by the FEO, two or more refiners may adjust their base percentage yield of a particular refined petroleum product or residual fuel oil on a pooled basis, such that the combined production of that product or residual fuel oil by the two or more refiners would equal the combined production of those refiners if each refiner had separately equaled or exceeded its adjusted percentage yield of that product or residual fuel oil.

(d) *Allocation of crude oil.* The FEO may adjust the quantities of crude oil allocated among refiners under § 211.65 in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply for which an adjustment factor has been established. Such adjustments shall be designed to meet the objectives of this chapter and of the Act, such that refiners which increase production in excess of their adjusted percentage yield of that product or residual fuel oil, or less than the adjusted percentage yield of that product or residual fuel oil may be allocated greater or lesser quantities of crude oil during the next allocation quarter, respectively.

[FR Doc.74-4209 Filed 2-19-74;12:13 pm]

## PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

### Gasoline Prices—Non-Product Costs

Part 212 of the Federal Energy Office regulations is amended to permit retail gasoline dealers and refiners to increase their prices of gasoline sold at retail by one cent per gallon to reflect non-product cost increases per gallon of gasoline attributable to reduced supplies of gasoline. This amendment recognizes that the fixed costs of doing business for retailers of gasoline have caused the retailers' margins to decrease on a per gallon basis as supplies of gasoline have been reduced.

To implement this change, § 212.93(b)(1) is amended to allow retailers and reseller-retailers of gasoline, beginning with March 1974, to charge one cent per gallon of gasoline in excess of the price otherwise allowable, during any month immediately following a month in which the seller received a volume of gasoline that was less than 85 percent of its adjusted base period volume. A seller, however, may still not increase its May 15, 1973 selling price more than once in any calendar month to reflect allowable price increases.

Section 212.82(b)(2) has also been changed to permit a refiner which retails gasoline to include in the definition of "allowable costs" increased nonproduct costs per gallon of gasoline which are attributable to the retail marketing of gasoline during any month immediately following a month in which a refiner had an allocation fraction of less than 85 percent, but only to the extent that those costs allow an increase in the price of gasoline above base prices by an amount not in excess of one cent

per gallon. A price increase justified by the amended § 212.82(b)(2) still may only be implemented after it has been prenotified in accordance with the provisions of Subpart I of Part 212.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the mandatory petroleum price regulations, the Federal Energy Office finds that normal rulemaking procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order 47, 39 FR 24)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., February 19, 1974.

JOHN C. SAWHILL,
*Deputy Administrator,*
*Federal Energy Office.*

1. Section 212.82 is amended in paragraph (b)(2) to read as follows:

**§ 212.82 Price rule.**

* * * * *

(b) *Price Increases.*

* * * * *

(2) For the purpose of determining whether net allowable costs have been incurred which permit the charging of a price in excess of the base price, base costs shall be compared with current costs. Current costs which exceed base costs may be used to justify a price in excess of the base price. "Allowable costs" under this section mean non-product costs attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and exclude any costs attributable to marketing operations except as follows:

(i) Non-product costs attributable to the marketing of special products may be included as allowable costs to the extent that those costs allow an increase in the prices of special products above the prices otherwise permitted to be charged for such products pursuant to the provisions of this section by an amount not in excess of one cent per gallon with respect to retail sales and one half cent per gallon with respect to all other sales; and

(ii) Non-product costs per gallon of gasoline attributable to the retail marketing of gasoline may also be included as allowable costs immediately following a month in which a refiner had an allocation fraction (as defined in § 211.51 of this chapter) of less than 85 percent but only to the extent that those costs per gallon of gasoline allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this section, including subparagraph (i), above, by an amount not in excess of one cent per gallon with respect to retail sales.

2. Section 212.93(b) is amended in paragraph (1) to read as follows:

**§ 212.93 Price rule.**

* * * * *

(b) * * *

(1) With respect to special products: (i) Beginning with January, 1974, with respect to retail sales, a seller may charge one cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, and, with respect to all other sales a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973.

(ii) Beginning with March 1974, with respect to retail sales of gasoline, a seller may, during any month immediately following a month in which the seller received a volume of gasoline that is less than 85 percent of its adjusted base period volume as defined in § 211.51 of this Chapter, charge one cent per gallon of gasoline in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, including subparagraph (ii), above, to reflect non-product cost increases per gallon of gasoline.

(iii) A seller may not increase its May 15, 1973 selling prices to each class of purchaser more than once in any calendar month to reflect increased costs or the amounts permitted pursuant to paragraphs (b)(1)(i) and (b)(1)(ii) of this section, but may implement the increase on any day during that month.

[FR Doc.74–4199 Filed 2–19–74;12:13 pm]

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[7 CFR Part 924]

[Docket No. AO-317-A1]

### FRESH PRUNES GROWN IN WASHINGTON AND OREGON

### Notice of Hearing on Proposed Amendment of Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674)), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Third Floor Auditorium, Pacific Power & Light Building, 7 North 3rd Street, Yakima, Washington, beginning at 8:30 a.m., local time, February 28, 1974, with respect to proposed amendment of the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in the Counties of Okanogan, Chelan, Kittitas, Yakima, and Klickitat in the State of Washington, and all counties in Washington lying east thereof, and in Umatilla County in the State of Oregon. The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic, marketing, and other conditions which relate to the proposed amendment, hereinafter set forth, and to any appropriate modifications thereof.

The Washington-Oregon Fresh Prune Marketing Committee, the administrative agency established pursuant to the marketing agreement and order, submitted the following amendatory proposals and requested a hearing thereon.

1. Redesignate and revise § 924.45 to read:

§ 924.45 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, and marketing research and development projects, designed to assist, improve or promote the marketing, distribution, and consumption or efficient production of fresh prunes. The expense of such projects shall be paid from funds collected pursuant to § 924.41.

2. Revise paragraph (a) (3) of § 924.52 to read:

§ 924.52 Issuance of regulations.

(a) * * *

(3) Fix the size, capacity, weight, dimensions, markings, strength of material, or pack of the container, or containers, which may be used in the packaging or handling of fresh prunes;

* * * * *

The Fruit and Vegetable Division, Agricultural Marketing Service has proposed that consideration be given to making such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Portland Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1218 SW Washington Street, Portland, Oregon 97205 or from the Washington-Oregon Fresh Prune Marketing Committee, 601 West A Street, P.O. Box 2056, Yakima, Washington 98901.

Dated: February 14, 1974.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[FR Doc.74-4000 Filed 2-19-74;8:45 am]

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[7 CFR Parts 1004, 1002]

[Docket Nos. AO-160-A50, AO-71-A67]

### MILK IN THE MIDDLE ATLANTIC AND NEW YORK-NEW JERSEY MARKETING AREAS

### Notice of Reconvened Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

The hearing with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas designated herein, notice of which was published in the FEDERAL REGISTER dated December 21, 1973 (38 FR 35006), was held in Allentown, Pennsylvania, January 23-25, 1974, and in Downingtown, Pennsylvania, January 28-February 1, 1974, and February 5-7, 1974.

When the hearing was recessed on February 7, 1974, the Administrative Law Judge announced that the hearing would reconvene on March 5, 1974, at the same location at Downingtown, Pennsylvania, or at another location to be named by her and published in the FEDERAL REGISTER.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), notice is hereby given that the said public hearing will be reconvened commencing at 9 a.m., local time, on March 5, 1974, at the Franklin Motor Inn, 22nd Street and Benjamin Franklin Parkway, Philadelphia, Pennsylvania.

Signed at Washington, D.C., on: February 14, 1974.

DOROTHEA A. BAKER,
*Administrative Law Judge.*

[FR Doc.74-4091 Filed 2-19-74;8:45 am]

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### Commodity Credit Corporation

[7 CFR Part 1421]

### DRY EDIBLE BEANS

### Proposed Loan and Purchase Program for 1974 Crop

Notice is hereby given that the Secretary of Agriculture proposes to make determinations for the 1974 crop of dry edible beans, including whether a price support operation shall be undertaken, and if so, the loan level, program eligibility requirements, storage requirements and detailed operating provisions.

Statutory authority relating to such a program appears in sections 301, 303, 401, and 403 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1447, 1449, 1421, and 1423), and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Section 301 of the Agricultural Act of 1949 authorizes the Secretary to make available through loans, purchases, or other operations support to producers for any non-basic commodity for which support is not mandatory at a level not in excess of 90 per centum of the parity price for the commodity. In determining in the case of any commodity for which price support is discretionary whether a price support operation shall be undertaken and the level of such support, section 401 of the Act requires that consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of

the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. Section 303 requires that, in determining the level of support, particular consideration shall be given to the levels at which competing agricultural commodities are being supported.

Commodity and producer eligibility requirements, storage requirements and detailed operating provisions necessary to carry out a program in the event one is undertaken are also being reviewed for 1974. Provisions of this kind under current programs may be found in regulations governing loans, purchases, and other operations for grain and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Prior to making any of the foregoing determinations, consideration will be given to data, views, and recommendations which are submitted in writing to the Director, Cotton, Rice, and Oilseeds Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions must, in order to be sure of consideration, be received by the Director not later than March 15, 1974.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during the regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on February 13, 1974.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc.74-3998 Filed 2-19-74;8:45 am]

## Rural Electrification Administration

### [ 7 CFR Part 1701 ]

### TELEPHONE CABLE FOR AERIAL AND UNDERGROUND DUCT APPLICATIONS

### Proposed Revision in REA Specification

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), including the amendment thereto enacted by Pub. L. 93-32, REA proposes to issue Bulletin 345-13 to announce a revision in REA Specification PE-22 for telephone cable for aerial and underground duct applications. On issuance of REA Bulletin 345-13, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revision of PE-22 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before March 22, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revision of REA Specification PE-22 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345-13 announcing the revision of the specification is as follows:

REA BULLETIN 345-13

REA SPECIFICATION FOR TELEPHONE CABLE FOR AERIAL AND UNDERGROUND DUCT APPLICATIONS, PE-22

I. *Purpose.* To announce a revision in REA Specification PE-22 for Telephone Cable for Aerial and Underground Duct Applications.

II. *General.* REA Specification PE-22 has recently been revised to:

1. Allow the use of copper shielding as an equal alternate to coated aluminum.
2. Change the percent increases in melt index for propylene/ethylene copolymer jacketing compounds.
3. Change the requirements for the shipment of cables under pressure or containing pulling eyes.
4. Include Appendix 2 covering electrical performance requirements for cables containing a compartmental core separator.
5. Change the methods of repairing conductor insulation.
6. Change the jacket-to-shield adhesion requirements for coated aluminum.

The revised specification becomes effective July 1, 1974. All cables for aerial and underground duct applications bid or ordered by REA borrowers after that date shall comply with the revised REA Specification PE-22 dated March 1974. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date.

III. *Availability of specification.* Copies of the revised PE-22 will be furnished by REA upon request. Questions concerning the revised specification may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202 447-3827.

Dated: February 13, 1974.

C. R. BALLARD,
*Administrator—Telephone.*

[FR Doc.74-3945 Filed 2-19-74;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

### [ 20 CFR Part 404 ]

[Reg. 4]

### FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

### Subpart K—Employment—Wages—Self-Employment—Self-Employment Income

CREDITABILITY OF WAGES FOR SOCIAL SECURITY PURPOSES

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect the amendments to the Social Security Act made by section 203 of Pub. L. 92-336 enacted July 1, 1972; several sections of Pub. L. 92-603 enacted October 30, 1972; section 203 of Pub. L. 93-66 enacted July 9, 1973; and section 5(a) of Pub. L. 93-233 enacted December 31, 1973; which: (1) Include as wages payments made after 1972 to an employee of a Federal Home loan bank; and (2) include as wages payments made after 1972 to a temporary or intermittent employee of the Government of Guam, or any instrumentality which is wholly owned thereby; and (3) exclude as wages payments made after 1972 for services performed in the employ of a private, nonprofit auxiliary organization of a school, college, or university if the services are performed by a student who is both enrolled in and regularly attending classes at the school, college, or university; and (4) provide for the maximum amount creditable as wages for social security purposes for calendar years after 1971; and (5) exclude from wages payments made by an employer after 1974 to an employee in a month following the month of attainment of age 62 in which no work was performed; and (6) excluded from wages payments made by an employer after 1972 to a disabled employee for a period after the year of entitlement to disability insurance benefits in which he performed no work; and (7) provide for deemed wages of $300 in each quarter after 1956 in which an individual is paid wages for services as a member of a uniformed service; and (8) exclude from wages payments made after December 1972 by an employer to a survivor or estate of a former employee.

Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before March 22, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Sec. 205, 209, 210, 229, and 1102 of Social Security Act, as amended, 53 Stat. 1368, 49 Stat. 625, 64 Stat. 502, 81 Stat. 833, 49 Stat. 647; 42 U.S.C. 405, 409, 410, 429, and 1302)

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance.)

Dated: January 10, 1974.

J. B. CARDWELL,
*Commissioner of Social Security.*

Approved: February 14, 1974.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Subpart K, Regulations No. 4 of the Social Security Administration, as

amended (20 CFR Part 404), is further amended as set forth below.

1. Section 404.1013 is amended by revising paragraph (e) (2) (ii) to read as follows:

§ 404.1013 Services in employ of United States or instrumentalities thereof.

* * * * *

(2) * * *

* * * * *

(ii) In the employ of a Federal land bank association (formerly national farm loan association), a production credit association, a Federal Reserve bank, or a Federal credit union; and after 1959, in the employ of a Federal land bank, a Federal intermediate credit bank and a bank for cooperatives; and, after 1972, in the employ of a Federal Home Loan bank. Services performed as an employee of a Federal Home Loan Bank during the period January 1, 1967, through December 31, 1972, are not excepted from employment if the employee is employed by the Federal Home Loan bank on January 1, 1973, and the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 with respect to such services are paid by July 1, 1973, or at a later date provided in an agreement entered into prior to July 1, 1973, with the Secretary of the Treasury or his delegate;

* * * * *

2. Section 404.1014a is amended by revising paragraph (b) to read as follows:

§ 404.1014a Services in the employ of the Governments of American Samoa and Guam.

* * * * *

(b) *Guam.* Services in the employ of the government of Guam, its political subdivisions, or any instrumentality of any one or more of the foregoing wholly owned thereby, performed by an officer or employee thereof (including a member of the legislature of such government or political subdivision) are exempted from employment; provided, however, that services performed after 1972 by such employee properly classified as a temporary or as an intermittent employee are not excepted from employment unless performed by an elected official, a member of the legislature, or a patient or inmate in a hospital or penal institution, or are covered by a retirement system established by a law of Guam.

3. Section 404.1019 is amended by revising paragraph (b) to read as follows:

§ 404.1019 Students employed by schools, colleges, or universities.

* * * * *

(b) Services performed in the employ of a school, college, or university as defined in paragraph (a) of this section (whether or not such organization is exempt from income tax) are excepted from employment, if the services are performed by a student who is both enrolled in and regularly attending classes at such school, college, or university. Effective for services performed after 1972 in the employ of a private, nonprofit auxiliary organization of such a school, college, or university which is organized and operated exclusively for the benefit of, to perform functions of, or to carry out the purposes of the school, college, or university and is operated, supervised, or controlled by or in connection with the school, college, or university are also excepted from employment, if the services are performed by a student who is both enrolled in and regularly attending classes at the school, college, or university.

* * * * *

4. Section 404.1027 is amended by revising paragraphs (a) (1), (n) (1), and (q) (2) and by adding paragraph (u) to read as follows:

§ 404.1027 Exclusions from wages.

(a) *Annual wage limitation.* (1) The term "wages" does not include that part of the remuneration paid by an employer to an employee within any calendar year:

(i) After 1950 and prior to 1955 which exceeds the first $3,600 of remuneration;

(ii) After 1954 and prior to 1959 which exceeds the first $4,200 of remuneration;

(iii) After 1958 and prior to 1966 which exceeds the first $4,800 of remuneration;

(iv) After 1965 and prior to 1968 which exceeds the first $6,600 of remuneration;

(v) After 1967 and prior to 1972 which exceeds the first $7,800 of remuneration;

(vi) After 1971 and prior to 1973 which exceeds the first $9,000 of remuneration;

(vii) After 1972 and prior to 1974 which exceeds the first $10,800 of remuneration;

(viii) After 1973 and prior to 1975 which exceeds the first $13,200 of remunteration; or

(ix) After 1974 which exceeds an amount equal to the contribution and benefit base as determined under section 230 of the Act which is effective for such calendar year;

(exclusive of remuneration excepted from wages in accordance with paragraphs (b) through (u) of this section) paid within the calendar year by an employer to the employee for employment performed by him at any time after 1936.

* * * * *

(n) *Payments to employees for nonwork periods.*

(1) The term "wages" does not include any payment (other than vacation or sick pay) made by an employer to an employee for a period throughout which the employment relationship exists between the employer and the employee, but in which the employee does no work for the employer (including employees subject to call for the performance of work), nor any payment made to a corporate officer solely for holding office during a period in which no work was performed, if such payment is made:

(i) In the case of a man, after the calendar month in which he attains age 65, or for payments after 1974, after the calendar month in which he attains age 62; or

(ii) In the case of a woman, after the calendar month in which she attains age 62, or for payments made before November 1956, after the calendar month in which she attains age 65; or

(iii) In the case of a disabled employee regarding payments made after December 1972, the employee is at the time of payment entitled to disability insurance benefits under the Social Security Act, entitlement to which began prior to the calendar year in which such payment is made.

* * * * *

(q) *Payments to members of the uniformed services.* * * *

(2) An individual is deemed to have been paid in each calendar quarter occurring after 1956 in which he was paid wages for service as a member of a uniformed service, wages of $300 in addition to the wages actually paid to him for such service.

* * * * *

(u) *Payments by employer to survivor or estate of former employee.* The term "wages" does not include any payment made after December 31, 1972, by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died.

[FR Doc.74-3385 Filed 2-19-74;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 74-SO-12]

### VOR FEDERAL AIRWAY

### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign the west alternate to V-35 between Sugarloaf Mountain, N.C., and Holston Mountain, Tenn.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 22, 1974 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW, Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would realign V-35W from Sugarloaf Mountain

to Holston Mountain via the INT of Sugarloaf Mountain 301°T(303°M) and Holston Mountain 209°T(211°M) radials. This realignment would conform to revised terminal procedures for Asheville, N.C., Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 13, 1974.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.74-3925 Filed 2-19-74;8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 74-SO-7]

### FEDERAL AIRWAY

#### Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a VOR Federal Airway from Huntsville, Ala., to Rome, Ga.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 22, 1974, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would designate V-382 from Huntsville, Ala., direct to Rome, Ga. Pilots are presently flying this direct route. By designating it as an airway, the communications workload would be reduced for both the pilot and the controller.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 13, 1974.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.74-3923 Filed 2-19-74;8:45 am]

## [ 14 CFR Part 91 ]

[Docket No. 13543, Notice No. 74-6]

### AIRCRAFT FLYING BENEATH TERMINAL CONTROL AREAS

#### Proposed Airspeed Limitation

The Federal Aviation Administration is considering amending Part 91 of the Federal Aviation Regulations to clarify the regulation regarding air speed limitations for aircraft flying beneath a terminal control area (TCA). No substantive change would result.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW, Washington, D.C. 20591. All communications received on or before April 22, 1974 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

Amendment 91-78, which became effective on June 25, 1970, prescribed the air traffic rules for the separation, segregation, and control of aircraft operated within TCA's. One of the air traffic rules enacted by that amendment is contained in § 91.70(c), which reads "No person may operate aircraft in the airspace beneath the lateral limits of any terminal control area at an indicated airspeed of more than 200 knots (230 m.p.h.)."

As described in the preamble to Amendment 91-78, the purpose of the speed limit is to reduce the potential adverse effects caused by the compression of VFR traffic which might occur beneath the TCA floor and within VFR corridors through the TCA. It is the purpose of this proposed change to make it clear that all of the airspace underlying the TCA and the airspace within the VFR corridors through the TCA is subject to the 200 knot speed limit. It is proposed to express the concept more directly and not rely on the words "beneath the lateral limits" for this purpose.

(Sec. 307(c), 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(c) and 1354(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)))

In consideration of the foregoing, it is proposed to amend § 91.70(c) of Part 91 of the Federal Aviation Regulations to read as follows: "(c) No person may operate an aircraft in the airspace underlying a Terminal Control Area, or in a VFR corridor designated through a Terminal Control Area, at an indicated airspeed of more than 200 knots (230 m.p.h.)."

Issued in Washington, D.C., on February 11, 1974.

RAYMOND G. BELANGER,
*Director, Air Traffic Service, AT-1.*

[FR Doc.74-3924 Filed 2-19-74;8:45 am]

## National Highway Traffic Safety Administration

## [ 49 CFR Part 571 ]

[Docket No. 73-34; Notice 2]

### SCHOOL BUS BODY JOINT STRENGTH

#### Extension of Comment Period

The purpose of this notice is to extend the period for comments to the notice published January 22, 1974 (39 FR 2490), proposing a motor vehicle safety standard that will require a higher level of school bus body joint strength.

A request for a 30-day extension of the comment period was submitted by the School Bus Manufacturers Institute. The petition pointed out that the additional time was necessary in order to allow a more complete review of the proposal.

The NHTSA has found the request to have merit, and the comment period is extended to March 18, 1974.

The NHTSA does not intend or anticipate that this extension will result in a change in the standard's proposed effective date of January 1, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 501.8)

Issued: February 15, 1974.

ROBERT L. CARTER,
*Associate Administrator, Motor Vehicle Programs.*

[FR Doc.74-4076 Filed 2-15-74;4:17 pm]

# FEDERAL HOME LOAN BANK BOARD

## [ 12 CFR Part 584 ]

[No. 74-61]

### MULTIPLE SAVINGS AND LOAN HOLDING COMPANIES

#### Proposed Procedures Regarding Services and Activities

JANUARY 30, 1974.

The Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, considers it desirable to propose an amendment to Part 584 of the Rules and Regulations for Savings and Loan Holding Companies, (12 CFR Part 584), for the purposes described below. Accordingly, the Board hereby proposes to amend said Part 584 by adding a new § 584.2-1 thereto, immediately following § 584.2, to read as set forth below.

Section 408(c)(2) of the National Housing Act, as amended, provides, in part, that no multiple savings and loan holding company or subsidiary thereof which is not an insured institution shall commence any business activity other than five activities listed herein, or "furnishing or performing such other services

or engaging in such other activities as the Corporation may approve or may prescribe by regulation as being a proper incident to the operations of insured institutions and not detrimental to the interests of savings account holders therein". Paragraph (b) of proposed new § 584.2–1 sets forth the activities that the Board, pursuant to said section 408(c)(2)(F), proposes to prescribe by regulation as being "preapproved" services and activities for multiple savings and loan holding companies and their non-insured subsidiaries other than service corporations. (Services and activities of service corporation subsidiaries of multiple savings and loan holding company subsidiary insured institutions are prescribed by § 584.2(c) (12 CFR 584.2(c)).)

Paragraph (c) of proposed new § 584.2–1 sets forth the procedures which the Board proposes to require multiple savings and loan holding companies to follow before commencing the services and activities set forth in § 584.2–1(b). Under § 584.2(c)(1), in substance, the company would file a notice of intent to commence such a service or activity. If the company were commencing the service or activity by establishing it de novo, it could do so unless the Corporation objects before the close of 30 calendar days after receipt of the notice of intent. If the company were commencing the service or activity by acquiring a going concern, it could do so unless the Corporation objects before the close of 60 calendar days after receipt of the notice of intent. In the case of either de novo entry or entry by acquisition, the Director of the Holding Companies Section of the Board's Office of Examinations and Supervision could permit commencement of the service or activity at an earlier date and could extend the 30 or 60 days periods for an additional 15 days.

Paragraph (c)(2) of proposed new § 584.2 would provide that the Corporation may require a multiple savings and loan holding company or a subsidiary thereof which has commenced a service or activity pursuant to § 584.2–1 to modify or terminate, in whole or in part, such service or activity. Paragraph (c)(3) of proposed new § 584.2–1 would provide that a service or activity commenced pursuant to § 584.2–1 shall not be altered in any material respect unless a notice of intent to do so is filed under the same procedures required in paragraph (c)(1) of proposed new § 584.2–1.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, NW., Washington, D.C. 20552, by March 22, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

**§ 584.2–1 Services and activities of multiple savings and loan holding companies.**

(a) *General.* For the purposes of § 584.2(b)(6), the Corporation hereby prescribes for multiple savings and loan holding companies, or subsidiaries thereof which are neither insured institutions nor service corporation subsidiaries of subsidiary insured institutions, services and activities which are deemed for such purposes to be a proper incident to the operations of insured institutions and not detrimental to the interests of savings account holders therein. Services and activities of service corporation subsidiaries of multiple savings and loan holding company subsidiary insured institutions are prescribed by § 584.2(c).

(b) *Prescribed services and activities.* Subject to the provisions of paragraph (c) of this section, a multiple savings and loan holding company or subsidiary thereof which is neither an insured institution nor a service coropration of a subsidiary insured institution may furnish or perform the following services and engage in the following activities to the extent that it has legal power to do so:

(1) Originating, purchasing, selling and servicing any of the following:

(i) Loans, and participation interests in loans, secured by first liens on real estate, including brokerage and warehousing of such real estate loans;

(ii) Mobile home chattel paper (written evidence of both a monetary obligation and a security interest of first priority in one or more mobile homes, and any equipment installed or to be installed therein), including brokerage and warehousing of such chattel paper;

(iii) Loans, with or without security, for the altering, repairing, improving, equipping or furnishing of any residential real estate; and

(iv) Educational loans;

(2) Subject to the provisions of § 584.3, furnishing or performing clerical, accounting and internal auditing services primarily for its affiliates;

(3) Subject to the provisions of § 584.3, furnishing or performing the following services primarily for its affiliates, and for any insured institution and service corporation subsidiary thereof, and for other multiple holding companies and affiliates thereof:

(i) Data processing;

(ii) Credit information, appraisals, construction loan inspections and abstracting;

(iii) Development and administration of personnel benefit programs, including life insurance, health insurance, and pension or retirement plans;

(iv) Research, studies, and surveys;

(v) Purchase of office supplies, furniture and equipment;

(vi) Development and operation of storage facilities for microfilm or other duplicate records; and

(vii) Advertising and other services to procure and retain both savings accounts and loans;

(4) Acquisition of unimproved real estate lots, and acquisition of other unimproved real estate for the purpose of prompt development and subdivision, for (i) construction of improvements, (ii) resale to others for such construction, or (iii) use as mobile home sites;

(5) Development, subdivision and construction of improvements on real estate acquired pursuant to subparagraph (4) of this paragraph (b), for sale or rental;

(6) Acquisition of improved real estate and mobile homes to be held for rental;

(7) Acquisition of improved real estate for remodeling, rehabilitation, modernization, renovation, or demolition and rebuilding for sale or for rental;

(8) Maintenance and management of improved real estate; and

(9) Underwriting or reinsuring contracts of credit life or credit health and accident insurance in connection with extensions of credit by the savings and loan holding company or any of its subsidiaries, or extensions of credit by any insured institution or service corporation subsidiary thereof, or any other multiple savings and loan holding company or subsidiary thereof.

(c) *Procedures for commencing services or activities.* (1) Before a multiple savings and loan holding company or a subsidiary thereof may commence performing or engaging in a service or activity prescribed by paragraph (b) of this section, either de novo or by an acquisiiton of a going concern, it shall file a notice of intent to do so in a form prescribed by the Corporation. The original and one copy of such notice shall be filed with the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C., 20552, and two copies of such notice shall be sent to the Supervisory Agent. The activity or service may be commenced unless before the close of the calendar-day period stipulated in the next sentence, the Corporation finds that the service or activity proposed would not be, in the circumstances, a proper incident to the operations of insured institutions or would be detrimental to the interests of savings account holders therein. The period shall be 30 calendar days after the date of receipt of such notice, in the case of a de novo entry, and 60 calendar days after the date of receipt of such notice, in the case of an acquisition of a going concern. The Director may extend the appropriate calendar-day period for a period not to exceed 15 calendar days on the basis of the circumstances in a particular case. The Director or Supervisory Agent may request additional information from such holding company or subsidiary after receipt of notice, but the Corporation need not consider additional information forthcoming from the holding company or subsidiary as a result of such a request which is received by the Director less than 10 calendar days before the end of the original or extended calendar-day period. The Director may permit such

holding company or subsidiary to commence the activity at an earlier date on the basis of the circumstances in a particular case.

(2) The Corporation may require a multiple savings and loan holding company or subsidiary thereof which has commenced a service or activity pursuant to this section to modify or terminate, in whole or in part, such service or activity as the Corporation finds necessary in order to ensure compliance with the provisions and purposes of this part and of section 408 of the National Housing Act, as amended, or to prevent evasions thereof.

(3) Except as may be otherwise provided in a resolution by or on behalf of the Corporation in a particular case, a service or activity commenced pursuant to this section shall not be altered in any material respect from that described in the notice filed under subparagraph (1) of this paragraph (c), unless before making such alteration notice of intent to do so is filed in compliance with the appropriate procedures of said subparagraph (1) of this paragraph.

(Sec. 402, 48 Stat. 1256, as amended; sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended; 12 U.S.C. 1725, 1730a, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.74–3966 Filed 2–19–74;8:45 am]

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### POTENTIAL FUTURE OUTER CONTINENTAL SHELF OIL AND GAS LEASING

### Request for Comments

In order to implement President Nixon's directive to lease ten million acres in 1975, and in order to implement more fully the purposes and objectives of the Outer Continental Shelf Lands Act, all concerned parties representing the oil and gas industry and the general public are invited and encouraged to submit information concerning areas of interest for offshore oil and gas leasing and to identify problem areas. This is being done in order to help ensure that scarce resources for exploration and development can be employed on the most promising areas consistent with environmental safeguards. Regulations or procedures necessary to implement the other actions announced by the President in his Energy Message relating to Outer Continental Shelf (OCS) leasing will be subsequently published for public comment before they become effective and are not part of this request for comment.

Oil and gas resources of the continental margin, including those beyond the 200 meter depth contour, subject to jurisdiction of the United States are to be considered. Precise continental shelf boundaries between the U.S. and opposite or adjacent states have not, with some exceptions, been agreed. Accordingly certain areas are or may be subject to dispute. No decision has been made to undertake leasing in actually or potentially disputed areas while efforts are being made to reach agreement with the nations concerned. In this connection reference is made to the last sentence of Department of State Public Notice 320 appearing in 35 FR 3301 of February 20, 1970.

Leasing in the Cook Inlet of Alaska and on the Atlantic OCS is contingent on resolution of the litigation between the Federal Government and the State of Alaska and Atlantic coastal states regarding areas of jurisdiction or an alternative resolution of the issues. Further, the President's Council on Environmental Quality is conducting studies of the environmental impact of oil and gas production on the continental shelf of the Atlantic Ocean and the Gulf of Alaska. No leasing in these areas will be permitted unless it is determined that oil and gas exploration and development can proceed in an environmentally satisfactory manner. However, information concerning OCS areas of interest is being requested at this time in order to identify areas of special resource potential and of environmental value. It is the intention of the Department of Interior to conduct a call for tract nominations on more specific areas after consideration of the comments resulting from this request and, where appropriate, after resolution of State/Federal jurisdiction disputes and a determination from the CEQ Atlantic and Gulf of Alaska studies that development can proceed in those areas in an environmentally satisfactory manner. Information received in response to this request will also be considered in determining future leasing plans.

The areas to be commented on are as follows:

| | *Approximate location* |
|---|---|
| Atlantic Coast OCS areas: | |
| 1. North Atlantic | Bay of Fundy to Cape Cod north of 40° N. latitude and south of.[1] |
| 2. Mid-Atlantic | Cape Cod to Cape Hatteras between 40° N. to 35° N. latitude. |
| 3. South Atlantic | Cape Hatteras to Key West south of 35° N. latitude. |
| Gulf of Mexico OCS areas: | |
| 4. East Gulf | East of 88° W. longitude. |
| 5. Central Gulf | Between 88° W. to 93° W. longitude. |
| 6. West Gulf | West of 93° W. longitude to Mexican border. |
| Pacific OCS areas: | |
| 7. Southern California Borderland | South of 34° N. latitude to Mexican border (except Santa Barbara Channel). |
| 8. Santa Barbara | Santa Barbara Channel. |
| 9. North and Central California | North of 34° N. latitude to California-Oregon border (except Santa Barbara Channel). |
| 10. Washington-Oregon | Between California-Oregon border and Canadian border. |
| Alaska OCS areas: | |
| 11. Cook Inlet | South of 60° N. latitude. |
| 12. Southern Aleutian Shelf | West of 153° W. longitude. |
| 13. Gulf of Alaska | North of 56° N. latitude, east of 153° W. longitude. |
| 14. Bristol Bay | South of 58° N. latitude, east of 165° W. longitude. |
| 15. Bering Sea Shelf | U.S. waters south of 66° N. latitude. |
| 16. Beaufort Sea | Between 142° W. and 160° W. longitude. |
| 17. Chukchi Sea | U.S. waters north of 66° N. latitude, west of 160° W. longitude. |

[1] The line drawn from a point at:
42°19.9' N. latitude, 67°46.9' W. longitude, thence to 42°9.3' N. latitude, 67°40.6' W. longitude, thence 41°42.4' N. latitude, 67°23.8' W. longitude, and ending at 41°15.3' N. latitude, 66°58.9' W. longitude.

Other Areas of interest may be commented upon by appropriate area designation.

#### Areas of Oil and Gas Resource Potential

The following information is requested:

1. Rank by order of oil and gas potential the areas of interest listed above.

2. Outline of geologic structures of areas of interest shown on appropriate maps. All such information will remain confidential on request. Bureau of Land Management official leasing maps may be obtained from: (1) Gulf of Mexico Outer Continental Shelf Office, Suite 3200, The Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113; (2) Pacific Outer Continental Shelf Office, 300 North Los Angeles Street, Los Angeles, California 90012; or, (3) Alaska Outer Continental Shelf Office, 121 W. Firewood Lane, Room 270, P.O. Box 1159, Anchorage, Alaska 99510.

3. For each area of interest, estimated time periods required to achieve initial and peak production after a discovery is made, and identification of specific factors that may constrain development for these areas.

#### Areas of Environmental Concern

The following information is requested:

1. Rank with areas of greatest environmental concern first the above areas and indicate specific environmental values which exist and damages which might be incurred.

2. If possible, indicate the location on maps of specific environmental features or hazards to be considered in these areas if their resource potential is devel-

oped (locations where maps can be obtained listed above).

3. Indicate specific actions which may be taken to reduce or eliminate potential conflicts with oil and gas exploration and development activities.

The information should be submitted no later than May 1, 1974, in envelopes or packets marked "Request for Comments on Potential Future, Outer Continental Shelf Oil and Gas Leasing." The information should be submitted to Director, Attention 730, Bureau of Land Management, Washington, D.C. 20240. Copies of the information should also be sent to the Chief, Conservation Division, No. 600, U.S. Geological Survey, National Center, Reston, Virginia 22092.

GEORGE C. TURCOTT,
*Associate Director,*
*Bureau of Land Management.*

Approved: February 15, 1974.

JOHN C. WHITAKER,
*Acting Secretary of the Interior.*

[FR Doc.74-4126 Filed 2-15-74;4:51 pm]

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[Wyoming 0310786]

## WYOMING

### Opening Land to Small Tract Application

FEBRUARY 11, 1974.

1. Pursuant to Small Tract Classification Wyoming 0310786 dated September 14, 1971, the following described land will be opened to small tract application as set out below, for sale under the Small Tract Act of June 1, 1938, as amended; 43 U.S.C. 682a–e (1970):

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 40 N., R. 78 W.,
Sec. 30, lot 7.

The above described parcel contains 4.79 acres.

The land is located in Natrona County near Midwest, Wyoming. It is bordered on the east and south by U.S. Highway 87 and State Highway 387.

2. At 10 a.m. on February 21, 1974, the land will be open to applications to purchase the lot under the Small Tract Act. All valid applications received at or prior to 10 a.m. on February 21, 1974, will be considered as simultaneously filed at that time. All applications filed after that time will be considered in the order of filing.

3. Applicants must file, in duplicate, with the Chief, Lands and Mining Section, Bureau of Land Management, PO Box 1828, Cheyenne, Wyoming, application Form 2730–1 filled out in compliance with instructions on the form. The application must be accompanied by a relinquishment of the existing small tract lease W–0310786 embracing the land, conditioned upon conveyance of title. Copies of the application form can be secured from the above-named official. The application must be accompanied by a filing fee of $10 and the purchase money for the land in the amount of $29,000. Failure to transmit these payments with the application will render the application invalid. Advance purchase payments will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

4. The patent (the title transfer document), when it issues, will contain a reservation of all minerals to the United States, and will be subject to rights-of-way of record and the rights of prior oil and gas permittees.

DANIEL P. BAKER,
*State Director.*

[FR Doc.74-3938 Filed 2-19-74;8:45 am]

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## National Park Service

### CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, February 23, 1974, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long, Glen Echo, Maryland (Chairman)
Mrs. Caroline Freeland, Bethesda, Maryland
Hon. Vladimir A. Wahbe, Baltimore, Maryland
Mr. John C. Lewis, Hamilton, Virginia
Mr. Burton C. English, Berkeley Springs, W. Va.
Mr. James G. Banks, Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mrs. Dorothy Grotos, Arlington, Virginia
Mr. Anthony Abar, Annapolis, Maryland
Mr. Ronald A. Clites, LaVale, Maryland
Mrs. Mary Miltenberger, Cumberland, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Grant Conway, Brookmont, Maryland
Mr. Edwin F. Wesely, Chevy Chase, Maryland
Mr. John C. Frye, Gapland, Maryland
Mr. Justice Douglas, Washington, D.C. (Special Consultant)
Mr. Rome F. Schwagel, Keedeysville, Maryland
Mr. Donald Frush, Hagerstown, Maryland

The matters to be discussed at this meeting include:

1. Dickerson Report.
2. Cumberland Report.
3. Superintendent's Report.
4. Status of the Master Plan.
5. Special Use Permits.
6. Status of Land Acquisition Program.
7. Report—Fort Duncan Historical Site.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 15 persons will be able to attend the sessions. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Assistant Director, Cooperative Activities, National Capital Parks, at 202–426–6715. Minutes of the meeting will be available for public inspection two weeks after the meeting, at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Date: February 13, 1974.

ROBERT M. LANDAU,
*Liaison Officer, Advisory Commissions, National Park Service.*

[FR Doc.74-3988 Filed 2-19-74;8:45 am]

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# DEPARTMENT OF AGRICULTURE

## Forest Service

### BEARTOOTH WILDERNESS, ABSAROKA WILDERNESS, AND CUT-OFF MOUNTAIN WILDERNESS

### Notice of Proposed Establishment

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890–892 (16 U.S.C. 1131–1132)), that a public hearing will be held, beginning at 9 a.m. on March 27, 1974, in the Cody Club Auditorium, Cody, Wyoming; on March 29, 1974, in the Petro Theatre, Eastern Montana College, Billings, Montana; and March 30, 1974, in Winans School Auditorium, 1015 West Clark, Livingston, Montana, on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for establishment of the Beartooth Wilderness, Absaroka Wilderness, and Cut-off Mountain Wilderness, comprised of 516,815 acres. The proposed Beartooth, Absaroka, and Cut-off Mountain Wildernesses are located in the Custer and Gallatin National Forests in the Counties of Carbon, Park, Stillwater, and Sweet Grass, Montana.

A brochure containing a map and information about the proposed Wildernesses may be obtained from the following:

Custer National Forest, 2602 1st Avenue North, Billings, Montana 59103.
Gallatin National Forest, Federal Building, Bozeman, Montana 59715.
Regional Forester, Northern Region, Federal Building, Missoula, Montana 59801.

Individuals and organizations may express their views by appearing at these hearings or, following the hearings, may submit written comments for inclusion in the official record to the Regional Forester, Federal Building, Missoula, Montana 59801, by April 30, 1974.

Those wishing to present oral statements at the hearings should notify the Regional Forester, Federal Building, Missoula, Montana 59801, by March 15, 1974, stating at which hearing location the views will be expressed.

Dated: February 13, 1974.

JOHN R. McGUIRE,
*Chief, Forest Service.*

[FR Doc.74-3999 Filed 2-19-74;8:45 am]

## SUPPRESSION STRATEGY FOR CONTROL OF SOUTHERN PINE BEETLE IN THE SOUTHEASTERN UNITED STATES

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the suppression strategy for control of southern pine beetle in the Southeastern United States, USDA–FS–DES(Adm)—74–1.

The environmental statement concerns a proposed analysis of the need and desirability for a Southeastern Area-wide suppression program by identifying the resources threatened, describing the techniques and benefits of suppression, and assessing the environmental impact of suppression activity.

This draft environmental statement was filed with CEQ on February 4, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 323, 12th St. & Independence Ave., SW., Washington, D.C. 20250.

USDA, Forest Service, Division of Forest Pest Control, 1621 N. Kent St., Room 1205–B, Arlington, Va. 22209.

Comments must be received not later than 45 days after the filing date with CEQ in order to be considered in the preparation of the final environmental statement.

M. W. KAGEORGE,
*Acting Area Director,*
*Southeastern Area.*

[FR Doc.74–3973 Filed 2–19–74;8:45 am]

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### Office of the Secretary

## NEW ORLEANS COTTON EXCHANGE

### Order Vacating Designations as a Contract Market

Pursuant to section 7 of the Commodity Exchange Act (7 U.S.C. 11), I hereby vacate the designations of the New Orleans Cotton Exchange of New Orleans, Louisiana, as a contract market for cotton and cottonseed oil effective April 1, 1974. The said exchange, which was designated as a contract market for cotton on September 13, 1936, and for cottonseed oil on December 8, 1940, has requested that such designations be vacated.

Issued this 14th day of February, 1974.

CLAYTON YEUTTER,
*Assistant Secretary for*
*Marketing and Consumer Services.*

[FR Doc.74–4002 Filed 2–19–74;8:45 am]

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## WOOL ASSOCIATES OF THE NEW YORK COTTON EXCHANGE, INC.

### Order Vacating Certain Designation as a Contract Market

Pursuant to section 7 of the Commodity Exchange Act (7 U.S.C. 11), I hereby vacate the designation of the Wool Associates of the New York Cotton Exchange, Inc., as a contract market for wool tops effective April 1, 1974. The said exchange, which was designated as a contract market for wool tops on June 1, 1938, has requested that such designation be vacated.

The said exchange shall remain designated as a contract market for wool, after April 1, 1974, having previously been so designated.

Issued this 14th day of February, 1974.

CLAYTON YEUTTER,
*Assistant Secretary for*
*Marketing and Consumer Services.*

[FR Doc.74–4003 Filed 2–19–74;8:45 am]

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# DEPARTMENT OF COMMERCE

### Social and Economic Statistics Administration

## CENSUS ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY

### Notice of Public Meeting

The Census Advisory Committee on Privacy and Confidentiality will convene on February 25, 1974, at 9:00 a.m. in Room 4830, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The Census Advisory Committee on Privacy and Confidentiality was established on October 7, 1971, to advise the Director, Bureau of the Census, on policy and procedure concerning the purpose and scope of census inquiries and on all aspects of privacy and confidentiality as they relate to the statistical work of the Bureau.

The Committee is composed of 15 members appointed by the Secretary of Commerce.

The agenda for the meeting is: (1) Archives procedure for handling Census of 1900 records, (2) potential effect on respondent cooperation if informed data will be made available after a fixed term, (3) Bureau of Labor Statistics procedures in regard to confidentiality, and (4) discussion of American Civil Liberties Union position regarding privacy.

Attendance will be limited to available space. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. Mathew E. Erickson, Legal Advisor, Bureau of the Census, Room 3039, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233) Telephone: 301–763–2818.

EDWARD D. FAILOR,
*Administrator, Social and Economic Statistics Administration.*

FEBRUARY 14, 1974.

[FR Doc.74–4050 Filed 2–19–74;8:45 am]

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### National Institutes of Health

## NATIONAL HEART AND LUNG INSTITUTE

### Notice of Workshop

The National Heart and Lung Institute is conducting a workshop March 4 and 5, 1974. The purpose of the workshop is to consider the role of endothelium in atherogenesis and to discuss possible implications for treatment. Participants will be from several countries, including Japan.

The workshop will be held at the National Institutes of Health in Bethesda, Maryland, Building 31, Conference Room 9 at 9 a.m. Admission is open, but subject to limitations of space in the conference room.

For further information please contact Dr. G. C. McMillan, NHLI, Landow Building, Room C–808, telephone (301) 496–1978.

Dated: February 10, 1974.

ROBERT S. STONE,
*Director,*
*National Institutes of Health.*

[FR Doc.74–3933 Filed 2–19–74;8:45 am]

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## TASK FORCE ON THE ASSESSMENT OF AUTOMATED BLOOD PRESSURE MEASURING DEVICES

### Notice of Meeting

The National Heart and Lung Institute wishes to announce the third meeting of the Task Force on the Assessment of Automated Blood Pressure Measuring Devices. The meeting will take place on April 26, 1974, from 8:30 a.m. to 5:00 p.m., in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The purpose of the meeting will be to continue discussion of automated blood pressure measuring devices as they relate to the needs of a mass screening program. Attendance by the public will be limited to space available.

For further information please contact Dr. Bernard H. Doft, NHLI, Landlow Building, Room A–922, telephone 496–5421.

Dated: February 8, 1974.

ROBERT S. STONE,
*Director,*
*National Institutes of Health.*

[FR Doc.74–3934 Filed 2–19–74;8:45 am]

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### Office of the Assistant Secretary for Health

## EXCLUSIVE PATENT LICENSE

### Notice of Proposed Issuance

Pursuant to § 6.3, 45 CFR Part 6, notice is hereby given of intent to issue a limited-term, revocable, exclusive patent license in and to an invention of Charles Heidelberger entitled "5-Trifluoromethyluracil, Derivatives Thereof, and Processes for Preparing the Same," limited in scope, however, to the topical use of the compound for the treatment of herpes infections of the eye.

Any objection thereto, together with request for opportunity to be heard, if desired, should be directed to Charles C. Edwards, M.D., the Assistant Secretary for Health, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before March 22, 1974. Interested parties may obtain a copy of the patent directed to this invention upon request in writing to the party hereinabove named.

AUTHORITY: 45 CFR 6.3.

Dated February 13, 1974.

CHARLES C. EDWARDS,
*Assistant Secretary for Health.*

[FR Doc.74-3983 Filed 2-19-74;8:45 am]

## Office of Education

### GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES

#### Closing Date for Receipt of Applications; Correction

In the notice of closing date for receipt of applications under Part C, Title V, ESEA, Grants to State and Local Educational Agencies, published at 39 FR 4497, (February 4, 1974), paragraph 5 should be corrected as follows:

"Applications forwarded by State educational agencies must be received by the Division of State Assistance, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, on or before the closing date."

(20 U.S.C. 867-867c)

Dated: February 13, 1974.

JOHN OTTINA,
*U.S. Commissioner of Education.*

[FR Doc.74-3958 Filed 2-19-74;8:45 am]

## Office of the Secretary

### CHILD AND FAMILY DEVELOPMENT RESEARCH REVIEW COMMITTEE

#### Notice of Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, the Office of the Secretary announces the reestablishment of the Child and Family Development Research Review Committee. This committee consists of twenty (20) members, including the Chairman, selected from authorities knowledgeable in the fields of child development, psychology, sociology, psychiatry, pediatrics, social work, and anthropology. The purpose and function of the Committee are to establish a system for review of grant applications in the field of child development, to assist the Director, Office of Child Development, in setting priorities for funding grant applications, and to advise the Secretary, Assistant Secretary for Human Development, and Director, Office of Child Development, concerning the review of research proposals.

Dated February 12, 1974.

THOMAS S. MCFEE,
*Acting Assistant Secretary for Administration and Management.*

[FR Doc.74-3982 Filed 2-19-74;8:45 am]

## CONSUMER ADVISORY COUNCIL

#### Notice of Meeting Open to the Public

Pursuant to Pub. L. 92-463 of October 6, 1972, notice is hereby given that there will be a public meeting of the Consumer Advisory Council to the Office of Consumer Affairs, U.S. Department of Health, Education, and Welfare, which will commence at 10 a.m. on February 21 in Room 5104, New Executive Office Building, 17th and H Streets NW., Washington, D.C. 20506, and continue on the morning of February 22 in the same location.

The Consumer Advisory Council was established under Section 5 of Executive Order No. 11583 issued February 24, 1971, to advise the Director of the Office of Consumer Affairs with respect to policy matters relating to consumer interests, the effectiveness of Federal programs and operation which affect the interests of consumers, problems of primary importance to consumers and ways in which unmet consumer needs can appropriately be met through Federal Government action.

The meeting is open to the public with the number of persons admitted subject to reasonable limitation according to space available. The agenda will include official swearing-in of new Council members, and discussions of the consumers interests in health insurance proposals, energy programs, international trade in textiles, and metric-conversion.

Signed in Washington, D.C., this 12th day of February 1974.

VIRGINIA H. KNAUER,
*Director, Office of Consumer Affairs and Executive Secretary, Consumer Advisory Council.*

[FR Doc.74-3984 Filed 2-19-74;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[Docket No. N-74-218]

### MORTGAGE AND LOAN INSURANCE PROGRAMS

#### Policy Statement on Thermal Insulation Requirements

The Department of Housing and Urban Development is publishing herewith proposed changes in thermal insulation requirements.

Part A consists of a change in the Minimum Property Standards for one and two living unit new construction. The cited numbers refer to the paragraph numbers in the basic Minimum Property Standards which are available in local HUD Offices. Part B changes mortgage insurance requirements relating to existing single family properties.

Because of the exigencies of the existing energy situation, the Secretary has found it unnecessary to provide the usual 30 day period for comments. However, comments received on or before March 12, 1974 will be considered in the formulation of the final language.

Interested persons are invited to participate in the making of proposed changes by submitting written data, views or statements to the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All material received on or before March 12, 1974, will be considered. Copies of any comments received will be available for examination during business hours at the above address.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., February 14, 1974.

SHELDON B. LUBAR,
*Assistant Secretary for Housing Production and Mortgage Credit.*

A. REVISION OF MINIMUM PROPERTY STANDARDS FOR ONE AND TWO LIVING UNITS

INTERIM REVISION NO. 51b

714 Thermal Insulation.

714-1 Building insulating materials shall comply with the following standards:

| | |
|---|---|
| Cellular glass | F.S. HH–I–551. |
| Expanded polystyrene insulation board | F.S. HH–I–524. |
| Fiberboard | F.S. LLL–I–535 or ASTM C–208, Class C. |
| Insulation board (urethane) | F.S. HH–I–530. |
| Insulation, thermal (perlite) | F.S. HH–I–574. |
| Mineral fiber, pouring or blowing | F.S. HH–I–1030. |
| Mineral fiber, blanket | F.S. HH–I–521. |
| Mineral fiber (roof) | F.S. HH–I–526. |
| Perlite, silicone treated loose fill | FHA UM–37. |
| Reflective, thermal | F.S. HH–I–1252. |
| Structural fiberboard insulating roof deck | AIMA IB Spec. #1. |
| *Cellulose, vegetable and wood fiber,* blanket or fill | F.S. HH–I–515. |
| Vermiculite | F.S. HH–I–585. |
| Vermiculite, water repellent loose fill | FHA UM–30. |
| Wood fiber blanket | CS–160. |

Notes:

a. Expanded perlite: F.S. HH–I–526 may be modified to permit the basic material to be a mineral substance made of rock, slag, or a mixture thereof, processed from a natural state into fibrous or cellular form with a minimum density of 8 lbs per cubic foot.

b. Perimeter insulation shall comply with the FHA test procedure, "Test Procedures to Determine Acceptability of Perimeter Insulation for Concrete Floor on Ground," dated June 1956.

714–2 *Labeling.*

714–2.1 Mineral Fiber Insulation shall be labeled as follows:

a. Blanket type, or combination blanket with reflective facing:

(1) Name of manufacturer or distributor.

(2) Insulation type.

(3) Thermal resistance "R" value of insulation fiber at the labeled insulation thickness.

b. Type I blankets with no membrane cover may either bear a label on a partial membrane facing, or may be branded with vertical stripes. Three stripes indicates the thermal resistance R equal 11. Five stripes indicates a resistance R equals 19.

c. Types II and III blankets with nonreflective and reflective membrane coverings respectively, shall be labeled with appropriate "R" value of 7, 11, or 19. No other "R" value is acceptable.

d. Thermal resistance "R" values apply to mineral fiber insulation only, and not to the building structure.

714–2.2 Reflective Insulation:

a. Blanket Type.

(1) *Name of manufacturer or distributor.*

(2) Insulation type.

(3) Thermal resistance "R" value. (R value to include single or multi-layers, foil or kraft backed, one or both sides.)

(4) Designate direction of heat flow.

714–2.3 Identification labeling and marking of all other acceptable building insulating material shall comply with their appropriate standard listed in paragraph 714.1.

714–2.4 Upon completion of the installation of insulation, a card similar to that shown in Figure 7b shall be completed and executed by the insulation applicator and by the builder, and shall be posted at a conspicuous location within the dwelling.

FIGURE 7b.—*Insulation certification*

This card shall be completed and posted in a conspicuous place upon completion of the installation of the insulation. (pneumatic or poured insulation, not applicable to sidewall insulation.)

| R-value—To obtain an insulation resistance (R) value of (see note below)— | Minimum thickness—Installed insulation shall be not less than— | Maximum net coverage [1]—Contents of bag shall not cover more than— | Weight per square feet—The weight per square foot of installed insulation shall be not less than— |
|---|---|---|---|
| R–22 | (2) | (3) | (4) |
| R–19 | (2) | (3) | (4) |
| R–11 | (2) | (3) | (4) |

[1] For gross coverage: 16 in o.c. Add 11 percent to maximum net coverage. Ceiling joists: 24 in o.c. Add 7 percent to maximum net coverage.
[2] Inches thick.
[3] Square feet.
[4] Pounds per square foot.

BUILDER'S AND APPLICATOR'S STATEMENT AND SIGNATURE

This is to certify that the insulation has been installed in conformance with the requirements indicated on this card to provide a value R=..... using ..... bags of insulation to cover ..... ft[2] area.

Date ..... Company name (builder) ..... Builder's signature

..... Company name (applicator) ..... Applicator's signature

(Batts and/or blankets)

| R-value | Minimum thickness |
|---|---|
| To obtain in an insulation resistance (R) of (see note below): | Installed insulation shall be not less than (inches): |
| R–19 | Inches thick. |
| R–11 | Do. |
| R–7 | Do. |
| (1) | |
| (1) | |

[1] For other than blanket type insulation.

BUILDER'S AND APPLICATOR'S STATEMENT AND SIGNATURE

This is to certify that the insulation has been installed in conformance with the requirements indicated herein to provide an R-value of ..... in ceiling, ..... in exterior walls, ..... in floors or crawl space perimeters.

Date ..... Company name (applicator) ..... Applicator's signature

Date ..... Company name (builder) ..... Builder's signature

714–3 *Insulation of Living Units.*

714–3.1 All buildings which are heated or cooled mechanically shall be constructed to comply with the maximum "U" value contained in Tables 7–11a through c.

TABLE 7–11a.—*Maximum "U" values of ceiling and wall sections of various constructions.*

| Winter degree days [1] | Flat roof deck [2] | Masonry wall construction | | Frame wall construction | | Doors and windows |
|---|---|---|---|---|---|---|
| | | Ceilings | Walls | Ceilings | Walls | |
| 4,500 or less [3] | 0.14 | 0.05 | 0.17 | 0.03 | 0.03 | 1.15 |
| 4,501 to 8,000 | .09 | .05 | .10 | .05 | .03 | .65 |
| 8,001 or more | .03 | .04 | .10 | .04 | .03 | .63 |

[1] Winter degree days and summer cooling hours may be obtained from the "NAHB Insulation Manual for Home and Apartments." Manuals are available from NAHB Research Foundation, Inc., Rockville, Md. 20350, or National Mineral Wool Insulation Association, 211 East 51st St., New York, N.Y., 10022. Other recognized sources of degree day and summer cooling data may be used.

[2] Indicates construction with rigid roof insulation and exposed structural system. When roof cavity is available use column for ceilings.

[3] Buildings to be mechanically cooled in areas having 400 or more summer cooling hours shall be insulated as area for 4,501 t 8,000 winter degree days, except for glazing.

714–3.2 Floor Sections, Foundation Walls and Slabs-on-Grade.

a. For floors over unheated basements, unheated garages or ventilated crawl spaces with operable louvers, the "U" value of floor section shall not exceed the value shown in Table 7–11b. (See Note (1).)

TABLE 7–11b.—*Maximum "U" value of floor sections over unheated basements, unheated garages or crawl spaces*

| Winter degree days | Structural slab | Wood and metal framing |
|---|---|---|
| 2,500 or less | (1) | (1) |
| 2,501 to 4,500 | 0.15 | 0.10 |
| 4,501 or more | .12 | .08 |

[1] No requirement.

(1) A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50 F.

b. Basement or Crawl Space Foundation Walls.

Insulation may be omitted from floors over heated basement areas, or heated crawl spaces if foundation walls are insulated. Foundation walls of heated basements need not be insulated except where habitable rooms are provided. The "U" value of foundation wall sections shall not exceed the value shown in Table 7–11c.

TABLE 7–11c

Maximum "U" Values of the Foundation Wall Sections of Heated Basement or Heated Crawl Space.

| *Winter Degree Days* | *Maximum "U" Value* |
|---|---|
| 2500 or less | No Requirement. |
| 2501 to 4500 | 0.24 |
| 4501 or More | .17 |

c. Crawl Space Plenums.

When a crawl space is used as a supply or return plenum, the crawl space perimeter wall shall be insulated to provide a maximum heat loss of 35 Btuh per lineal foot of perimeter wall assuming a crawl space air temperature of 70 F for return plenums and 110 F for supply plenums.

d. Loose Fill.

Blowing and poured type loose fill may be used in attic spaces where the pitch in roof design is not less than 2½ on 12 feet and there is at least 30 inches of clear headroom at the roof ridge. ("Clear Headroom" is defined as the distance from the top of the bottom chord of the truss or ceiling joists to the underside of the roof sheathing). When eave vents are installed, adequate baffling of the vent opening must be provided so as to deflect the incoming air above the surface of the installed blown or poured insulation. Baffles shall be made of wood or other durable material and shall be installed at the soffit on a 60 degree angle from the horizontal.

909–3.5 Weatherstrip windows to prevent infiltration of the undesirable outdoor elements.

Caulk around window frames with a non-hardening sealant.

909–4.5 All exterior doors shall be provided with a tight threshold and weatherstripping to prevent infiltration of undesirable outdoor elements.

Caulk around exterior door frame with a non-hardening sealant.

1003–3.2 Inside Winter Design Temperature shall be not less than 70 F and Summer Design Temperature not greater than 75 F. Heat loss and heat gain calculations shall be made using the winter design dry bulb at 99% and summer design dry bulb at 1% shown in the current ASHRAE Handbook of Fundamentals.

1003–3.3 Slab-on-Ground Floors.

For Slab-on-ground floors the edge heat loss around the perimeter of heated spaces shall not exceed a maximum value per linear foot of exposed edge of 50 Btuh for heated slabs and 42 Btuh for unheated slabs. Calculations of heat loss around slab edges shall be made using the following formula:

$$H=F\times P$$

Where:

H=Heat loss of the slab edge (Btuh).

F=Heat loss coefficient from Table 10–1 (Btuh) per linear foot of exposed edge)

P=Perimeter or exposed slab edge (linear feet).

TABLE 10-1.—*Slab Edge Heat Loss Coefficients (Btuh per Linear Foot)*

| Winter design temperature | Total width of insulation (inches) | F for unheated slab | | | F for heated slab [1] | | |
|---|---|---|---|---|---|---|---|
| | | R=5.00 | R=3.75 | R=2.50 | R=5.00 | R=3.75 | R=2.50 |
| −30° or colder | 24 | 34 | | | 45 | | |
| −25° F to −29° F | 24 | 32 | | | 44 | | |
| −20° F to −24° F | 24 | 30 | | | 41 | | |
| −15° F to −19° F | 24 | 28 | | | 38 | | |
| −10° F to −14° F | 24 | 27 | 40 | | 36 | | |
| −5° F to −9° F | 24 | 25 | 38 | | 34 | | |
| Zero to −4° F | 24 | 24 | 36 | | 32 | 48 | |
| +5° F to +1° F | 24 | 22 | 33 | | 30 | 45 | |
| +10° F to +6° F | 18 | 21 | 31 | 42 | 28 | 33 | 56 |
| +15° F to +11° F [2] | 12 | 21 | 31 | 42 | 28 | 33 | 56 |

[1] Slab floor with heating pipes or ducts in or immediately under slab.
[2] Where winter design temperatures are warmer than +15° F, perimeter insulation is not required. If installed in these areas (edge only) use values shown for +15° F to +11° F above.

B. THERMAL INSULATION REQUIREMENTS FOR EXISTING SINGLE FAMILY PROPERTIES

*Thermal Protection.* Necessary corrective measures will be required to ensure that all existing properties possess the following minimum thermal protection:

1. Thermal protection for glazing and doors is required for all habitable heated areas in locations having more than 4500 winter degree days annually. This will be effected through the installation of storm doors and storm sash or inserts, or insulating glass. Material and installation may be the most economical locally acceptable, but must meet "U" values as prescribed for new construction. Storm doors need not be applied to double front doors, double French doors, sliding glass doors or any other door whose dimensions require custom manufacturing which is not generally available or the cost of which would be excessive. Casement and awning windows and other types of sash may be exempt on an individual basis in any instance due to discontinued sizes or unusual opening configurations for which no storm inserts are manufactured and for which the cost of custom manufacturing would be excessive.

2. (A) Ceiling insulation shall be provided over all habitable heated areas in locations having 2500 or more annual winter degree days in amounts as follows:

(a) 2500 to 4500 degree days: 3½".
(b) 4501 to 8000 degree days: 6".
(c) 8001 or more degree days: 9".

(B) Ceiling insulation shall be provided over all habitable areas cooled by mechanical refrigeration. The amount of insulation shall be based upon annual summer cooling hours over 80 degree Fahrenheit as follows:

(a) Less than 400 summer cooling hours: 3⅓".
(b) 400 or more summer cooling hours: 6".

For homes both cooled by mechanical refrigeration and heated, the more stringent of the above requirements shall be met.

In all instances the adequacy of attic ventilation must be ascertained.

Exemption of the ceiling insulation requirement will be allowed for dwellings having flat roofs or other ceiling areas where installation is determined to be impractical.

3. Under floor insulation shall be required beneath all habitable heated areas in locations having 2500 or more annual winter degree days. Batts may be installed between floor joists as follows:

(a) 2500 to 4500 degree days: 2¼" batts.
(b) Above 4500 degree days: 3½" batts.

Exemption of under floor installation will be allowed where reflective foil insulation is already installed. If the crawl space is adequately equipped with closeable vents, vapor barrier and closeable access door the appraiser may exempt this insulation requirement, however, in this event any crawl space inadequacy must be brought up to architecturally acceptable standards through regular repair requirements.

4. The HUD estimated cost of energy conservation improvements will be included in cost and value. The improvements must be completed, and approved, prior to firm commitment.

In event the improvements are not completed and inspected prior to firm commitment, a firm contract bid by the installer must be presented prior to issuing the firm commitment. The firm contract price will also serve as the amount to escrow should there be any delay in completing the conservation requirements between firm commitment and insurance endorsement.

Thermal protection may be installed by the seller or the purchaser instead of by a contractor or tradesman. In such instances the cost estimate made by the appraiser for this installation will be used for mortgage calculations. In event the work is delayed beyond firm commitment due to a shortage of materials the escrow amount will be equal to 150% of the total estimated cost.

The energy conservation requirement may be waived only after it has been determined that a firm contract cannot be obtained within sixty days of date of firm commitment due to the inability of the industry to provide the required conservation items within sixty days because of a shortage of material and labor. This determination must be made by a survey of the local industry to be conducted by the field office for the particular item claimed to be in short supply.

[FR Doc.74-4005 Filed 2-19-74;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### WYOMING

### Notice of Proposed Action Plan

The Wyoming State Highway Department has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) Needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Public Information Office, Wyoming State Highway Department, Box 1708, Cheyenne, Wyoming 82001.
2. Wyoming State Highway Department, District No. 1, P.O. Box 1005, Laramie, Wyoming 82070.
3. Wyoming State Highway Department, District No. 2, P.O. Box 2193, Casper, Wyoming 82601.
4. Wyoming State Highway Department, District No. 3, P.O. Box 1260, Rock Springs, Wyoming 82901.
5. Wyoming State Highway Department, District No. 4, P.O. Box 668, Sheridan, Wyoming 82801.
6. Wyoming State Highway Department, District No. 5, P.O. Box 351, Basin, Wyoming 82410.
7. Wyoming Division Office—FHWA, O'Mahoney Federal Center, 2120 Capitol Avenue, Cheyenne, Wyoming 82001.
8. FHWA Regional Office—Region 8, Building 40, Denver Federal Center, Denver, Colorado 80225.
9. U.S. Department of Transportation, Federal Highway Administration, Environmental Development Division, Nassif Building—Room 3246, 400 7th Street, SW., Washington, D.C. 20590.

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before March 22, 1974.

Issued on February 14, 1974.

NORBERT T. FREEMAN,
*Federal Highway Administrator.*

[FR Doc.74-3361 Filed 2-19-74;8:45 am]

### Federal Railroad Administration

[FRA Waiver Petition No. HS-74-1]

### LOUISIANA SOUTHERN RAILWAY CO.

### Notice of Petition for Exemption From Hours of Service Act

The Louisiana Southern Railway Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-74-1, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before March 18, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on February 12, 1974.

DONALD W. BENNETT,
*Chief Counsel,*
*Federal Railroad Administration.*

[FR Doc.74-3953 Filed 2-19-74;8:45 am]

## ATOMIC ENERGY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON BABCOCK AND WILCOX WATER REACTORS

#### Notice of Meeting

FEBRUARY 15, 1974.

In accordance with the purposes of section 29 of the Atomic Energy Act (42 U.S.C. 2039), the Advisory Committee on Reactor Safeguards' Subcommittee on Babcock and Wilcox Water Reactors will hold a meeting on March 5 and 6, 1974, at the Holiday Inn, Route 29, Madison Heights, Virginia 24572. The purpose of this meeting will be to review various topics applicable to Babcock and Wilcox Company designed pressurized water reactors.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, MARCH 5, 1974, 2:30 P.M.—5:00 P.M.

Review of various topics common to pressurized water reactors (presentations by the AEC Regulatory Staff and B&W will be made and discussions with these groups will be held).

In connection with the above agenda item, the Subcommittee will hold an executive session at 2:00 p.m. on March 5, 1974, which will involve a discussion of its preliminary views, and an executive session at the end of the day on March 6, 1974, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS.

In addition, for the balance of the meeting on March 6 the Subcommittee will hold a closed session with the Regulatory Staff and B&W to discuss privileged information relating to plant design and corporate research. In the event the Subcommittee does not complete its discussion of various topics common to pressurized water reactors by the end of its session on March 5, it will continue the session which will be open to the public. An announcement will be made concerning this matter at the close of the meeting on March 5.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session will be held to discuss certain privileged information under exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than February 26, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon B&W topical reports and various other documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent time permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 3:30 p.m. and 5:00 p.m. on March 5, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on March 1, 1974, to the Office of the Executive Secretary of the Committee (telephone 301–973–5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection within several days at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202–547–6222), upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after May 6, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-4025 Filed 2-15-74;10:29 am]

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### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE NORTH ANNA POWER STATION

#### Notice of Meeting

FEBRUARY 14, 1974.

In accordance with the purposes of section 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards' Subcommittee on the North Anna Power Station will hold a meeting on March 5, 1974, at the Holiday Inn, Route 29, Madison Heights, Virginia 24572. The purpose of this meeting will be to review the geologic conditions at the Virginia Electric and Power Company's North Anna Power Station site, which is located in Louisa County, Virginia, about 24 miles southwest of Fredericksburg, Virginia.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, MARCH 5, 1974, 9:00 A.M.–1:00 P.M.

Review of information pertaining to geologic conditions of the site (presentations by the AEC Regulatory Staff and the Virginia Electric and Power Company and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than February 26, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 11:00 a.m. and 1:00 p.m. on the day of the meeting, March 5, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on March 1, 1974, to the Office of the Executive Secretary of the Committee (telephone 301–973–5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, moton picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection within several days at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and within nine days at the office of Mr. Dean Agee, Executive Secretary, Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone: 202–547–6222), upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after May 6, 1974. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-4026 Filed 2-15-74;10:29 am]

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[Docket No. 50-247]

## INDIAN POINT NUCLEAR GENERATING UNIT 2

### Issuance of Amended License

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D, section A.9 and A.11, to 10 CFR Part 50, notice is hereby given that a memorandum and order dated January 29, 1974, by the Atomic Safety and Licensing Appeal Board in the above captioned proceeding authorizing issuance of an amended license to the Consolidated Edison Company of New York, Inc., for operation of the Indian Point Nuclear Generating Unit 2, located in Westchester County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C., and in the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

The memorandum and order of the Atomic Safety and Licensing Appeal Board modified in certain respects the initial decision of the Atomic Safety and Licensing Board dated September 25, 1973, and the contents of the final environmental statement relating to the licensing for operation of the Indian Point Nuclear Generating Unit 2, prepared by the Commission's Directorate of Licensing. Pursuant to the provisions of 10 CFR Part 50, Appendix D, Section A.11, the Initial Decision of The Atomic Safety and Licensing Board and the final environmental statement are deemed modified to the extent that condition 2.E.(2) relating to the time for submission of an evaluation of economic and environmental impacts of an alternative closed-cycle cooling system has been changed to December 1, 1974. As required by section A.11 of Appendix D, a copy of the memorandum and order which modifies the final environmental statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Pursuant to the above mentioned memorandum and order, the Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License DPR-26 to Consolidated Edison Company of New York, Inc., for operation of a pressurized water nuclear reactor known as the Indian Point Nuclear Generating Unit 2, at steady state reactor core power levels not in excess of 2758 megawatts thermal, in accordance with the provisions of the license and the technical specifications.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Ch. I which are set forth in the license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The amended license is effective as of its date of issuance and shall expire on October 14, 2006.

In addition to the memorandum and order, copies of (1) the initial decision dated September 25, 1973, (2) Amendment No. 4 to Facility Operating License DPR-26, (3) the report of the Advisory Committee on Reactor Safeguards dated September 23, 1970; (4) the Directorate of Licensing's Safety Evaluation dated November 16, 1970, and Supplements 1, 2, and 3 thereto, dated November 20, 1970, July 1971, and September 3, 1971, respectively; (5) the Final Facility Description and Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report dated August 6, 1970, and supplements thereto; (7) the Draft Environmental Statement dated April 13, 1972; and (8) the Final Environmental Statement dated September 1972, are available for public inspection at the above designated locations in Washington, D.C., and Montrose, New York. Single copies of the memorandum and order by the Atomic Safety and Licensing Appeal Board, the Initial Decision by the Atomic Safety and Licensing Board, the license, the Final Environmental Statement, and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Md., this 13th day of February 1974.

For the Atomic Energy Commission.

KARL KNIEL,
*Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.*

[FR Doc.74-3962 Filed 2-19-74;8:45 am]

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## URANIUM ENRICHMENT SERVICES AGREEMENTS

### Execution

On September 11, 1973 (38 FR 24937), the United States Atomic Energy Commission gave notice of its offer, pursuant to its Uranium Enrichment Services Criteria (38 FR 12180, May 9, 1973) to provide uranium enrichment services in facilities owned by the AEC, as authorized by the Atomic Energy Act of 1954, as amended (The Act).

In announcing the terms and conditions of the offer, the Commission's notice stated that the standard agreements covering such services will normally be executed eight years in advance of the initial delivery thereunder, but established a one-time transition period to accommodate customers requiring deliveries under the new agreement less

than eight years from the date of entering into such agreement. For cases in which the reactor requires initial delivery prior to July 1, 1978, the notice required that the execution of such agreements be no later than December 31, 1973.

In a limited number of cases, however, reactor operators who intended to execute such agreements pursuant to the Agreement for Cooperation in the Civil Uses of Atomic Energy between the United States and the International Atomic Energy Agency (IAEA) were unable to do so as a result of a requirement that the Board of Governors of the IAEA approve these arrangements. Since the Board of Governors has not met since September 1973, it was impossible for these agreements to be concluded by December 31, 1973.

The Commission has concluded that the failure of these reactor operators to meet the conditions of the Commission's one-time transition period was caused by factors entirely beyond their control. Accordingly, the Commission hereby amends its notice with respect to the one-time transition period (38 FR 24937, September 11, 1973) to permit the execution of standard long-term, fixed-commitment agreements after December 31, 1973, for cases in which the reactor requires initial delivery prior to July 1, 1978, with respect to which the reactor operator, or his Government, provides assurance to the Commission that enriching services for the reactor will, subject to the necessary approval by the Board of Governors of the IAEA, be obtained from the Commission under the standard terms of a long-term, fixed-commitment agreement, and under the following conditions:

1. The customer must agree to pay an additional charge, equivalent of the interest, at the per-annum rate (365-day basis) established from time to time by the Commission for general application to monies due the Commission, on the amount of the advance payment required under the agreement from and including January 1, 1974, through the dates of execution of the agreement.

2. Any such agreement must be executed by all necessary parties at the earliest practicable date but in no event later than June 30, 1974.

This notice shall be effective on February 20, 1974.

Dated at Germantown, Md., this 14th day of February 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
*Acting Secretary of the Commission.*

[FR Doc.74-4060 Filed 2-19-74;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 25990; Order 74-2-38; Agreement CAB 24124]

### AMERICAN AIRLINES, INC. ET AL.

### Order Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of February 1974.

Joint application of American Airlines, Inc., Eastern Air Lines, Inc. and Pan American World Airways, Inc. for approval of a capacity reduction agreement in the New York/Newark-San Juan market to implement the fuel allocation program.

American Airlines, Eastern Air Lines, and Pan American World Airways have submitted an application for prior Board approval, pursuant to Subpart P of the Board's rules of practice (14 CFR 302.1601 through 302.1608), of an agreement between them which would establish maximum scheduled frequency levels for service between New York/Newark and San Juan, Puerto Rico. Discussions which led to the adoption of this agreement were held, pursuant to Order 73-10-50 (October 12, 1973), as amended by Orders 73-10-79 (October 19, 1973) and 73-11-50 (November 13, 1973), on November 14, 1973 in Washington, D.C.[1]

Answers in opposition to Board approval of this agreement were filed by the Commonwealth of Puerto Rico and by the United States Department of Justice (DOJ).

The New York/Newark-San Juan market is already the subject of a May 9, 1973 capacity agreement approved by the Board for a period of six months by Order 73-8-59, August 10, 1973.[2] The agreement covered by this application would be implemented on January 31, 1974, subject to prior Board approval, and would terminate on June 14, 1974. The new agreement would establish lower maximum schedule limitations for the period of its effectiveness than those permitted by the May 9, 1973 agreement. The starting point for the new agreement is the "Planned Weekly Frequencies" (both wide-bodied and narrow-bodied) of the three carriers. The "Planned Weekly Frequencies" for each carrier, as set forth in the new agreement, are within the service limitations permitted under the May 9, 1973 agreement, as defined in that agreement for the period January 15, 1974–June 14, 1974. The new agreement provides for a reduction of the "Planned Weekly Frequencies" by an agreed number of "Weekly Equivalent Frequencies," as follows:

| Carrier: | *Reduction—Weekly equivalent frequencies* |
|---|---|
| American | 5 |
| Eastern | 7 |
| Pan American | 4 |

For purposes of determining the number of "Weekly Equivalent Frequencies," a wide-bodied aircraft counts as "2" and a narrow-bodied aircraft as "1." To achieve the agreed weekly reductions, it is contemplated that the carriers would drop the following weekly round-trip services: American—one B-747 and three B-707; Eastern—three L-1011 and one B-727-200; and Pan American—two B-747.

As in the previous agreement, extra sections may be operated but not held out to the public, and there is no restriction on the manner in which the carriers may use the weekly frequencies established therein: To meet passenger demand during the holiday period of April 5-23, 1974, the parties may substitute wide-bodied jets for narrow-bodied jets without restriction, except that such substitutions are not to be published, advertised or otherwise held out to the public.

In support of their agreement, the carriers contend that the fuel savings as a result of this agreement will be almost 185,000 gallons per week, and that the level of service called for under the agreement is reasonable, particularly in view of the emergency energy situation which confronts the nation. The agreement provides that the carriers are free to add extra sections in order to accommodate periods of exceptional demands. Furthermore, according to the carriers, the traffic experience last year and the projections for the coming months, demonstrate that capacity in these markets can be reduced without compromising the needs of the traveling public. The carriers allege that in the New York/Newark-San Juan market, the forecast traffic and capacity under the agreement will result in monthly load factors during the February–June 1974 period ranging between 57 percent and 69 percent, or an average for the five months of 65 percent.[3] While the seats in the 1974 months are forecast to be below the comparable months in 1973, the carriers expect passengers to be down by 5 percent. In support of this, they say that in the first 10 months of 1973 the New York/Newark-San Juan traffic was below the comparable month of 1972 during every month. For the entire 10 months, the 1973 traffic was 6 percent under the 1972 period. For these reasons, the carriers believe that the proposed 1974 agreement capacity is reasonable under the present circumstances.[4]

For the above reasons, the carriers contend that the agreement is required by a serious transportation need, in view of the Mandatory Fuel Allocation

[1] Representatives of the Board and of the Commonwealth of Puerto Rico were observers at these discussions and a transcript thereof was filed with the Board, in conformance with the conditions attached to the Board's authorization of the discussions in the orders cited above.

[2] That agreement was consolidated for hearing with the transcontinental capacity agreement (see Order 73-7-147, July 27, 1973) and is now being considered in the Capacity Reduction Agreements Case, Docket 22908.

[3] In February–June 1973 the monthly load factors between New York/Newark and San Juan were between 55 percent and 66 percent.

[4] At the present time both American and Eastern provide service between Newark Airport and San Juan. Both carriers will continue to offer Newark-San Juan service under the limitations in the instant agreement.

Program,[5] and that it will secure important public benefits by maintaining competition and avoiding the possibility of excessive unilateral reductions or withdrawals of service.[6] Furthermore, they say this agreement is similar to those which have recently been approved by the Board.

Puerto Rico opposes the agreement. It says its island status makes it especially dependent on a full and effective pattern of air transportation to satisfy the living needs of its citizens and to attract business and tourism, and that airline capacity reductions have a much greater impact on Puerto Rico than on many areas of the country. It says it did not oppose the capacity reduction agreements in this market in the past, but that one effect of those agreements has been a depression in the level of traffic in the market. Therefore, Puerto Rico feels that detrimental impact of the agreement herein outweighs any fuel savings involved. It says that this market is being treated in an unduly discriminatory fashion since it is the only one in the country to be subjected to a second capacity reduction agreement on top of one already in effect. while, it alleges, traffic volume and load factors in this market are higher than in some others which are covered by capacity agreements. Puerto Rico questions the authority of the carriers to modify their existing agreement in New York/Newark-San Juan since that agreement had already been approved by the Board and was the subject of a hearing proceeding. Finally, Puerto Rico says that the airline fuel situation has improved, and the fuel savings of the existing agreement should be a sufficient contribution from this market, and that this agreement does not meet the Local Cartage tests.

DOJ also opposes. It says that the carriers have not offered a justification for supplanting the existing agreement in this market, or for the inability of the carriers to unilaterally comply with the Mandatory Petroleum Allocation Program. Therefore, DOJ argues that the carriers have met neither the Local Cartage tests nor those of other decisions which require administrative agencies to consider antitrust policies as an element of the public interest, and that the Board should not approve the proposed agreement.

The air transportation industry is being faced with a shortage of fuel. As a result of this situation the air carriers must make fuel-saving adjustments to their schedules. The Board has already noted its concern that those cutbacks necessitated by the fuel shortage be made in a manner that provides the best service possible under the circumstances. Accordingly, it is the Board's belief that inter-carrier agreements on schedule reductions necessitated by the fuel emergency, which agreements can be analyzed and monitored by the Board to see that available capacity is operated under schedules that provide the most convenient service practicable under the circumstances, will best serve the public interest.

Based on the foregoing considerations, it is concluded that the agreement herein should be approved, subject to certain conditions. The service proposed in this agreement appears to reasonably satisfy the needs of the traveling public as well as to conserve the fuel supplies of the air carriers. Average load factors during 1973 in the agreement market have not exceeded 72 percent, and in the four months during which the agreement is to be effective the forecast load factors range from 57–69 percent.[7] Thus, it seems that as a result of the implementation of this agreement, the traveling public will continue to receive a reasonable frequency of service and the carriers will be a step closer toward reaching their allocated fuel levels.[8]

In response to Puerto Rico's comments, our analysis of the agreement indicates that it will not have a significant detrimental effect on the island, since Puerto Rico will continue to be served by many flights per day, and the indications are that the load factors on those flights will not exceed even 70 percent. We will impose reporting requirements on approval of the agreement in order to monitor its actual effects. As to the alleged traffic depressant effect of capacity reduction agreements, this phenomenon has not been demonstrated at this time. Puerto Rico has an opportunity to present evidence of such a consequence, if it exists, in the Capacity Reduction Agreement Case, Docket 22908, and the Board could thereafter take appropriate action. It does not seem that this market is being treated in an unduly discriminatory fashion. There is no reason why the parties to any agreement cannot revise their agreement or form a new one on the same subject matter at any time,[9] so long as all agreements, modifications, or cancellations are properly filed with the Board for approval. Each such agreement, modification, or cancellation will be evaluated on its merits. In this case, it appears that the agreement herein will have beneficial effects without imposing hardships on any party, and that the Board's guidelines,[10] will not be violated.[11] Finally, the suggested easing of the airlines' fuel problems can only be described as such in comparison to the more severe problems that were feared. There is little doubt that during the next several months, when this agreement will be effective, the supply of fuel available to the air carriers will be significantly less than that anticipated when the prior agreement was entered into.

In response to the comments filed by DOJ, we note that similar arguments have been raised by DOJ and rejected by the Board in considering previously approved fuel savings capacity reduction agreements. See Orders 74–1–41 (January 4, 1974) at pages 3–4; 74–1–21 (January 3, 1974) at page 3, note 10; 73–11–147 (November 30, 1973) at page 2; and 73–10–110 (October 31, 1973) at Appendix B. page 1. It has been determined that the advantages that will result from this agreement in terms of meeting problems raised by the fuel shortage outweigh the pro-competitive considerations advanced by DOJ.

*Accordingly, it is ordered,* That:

1. Agreement CAB 24124 be and it hereby is approved, subject to the following conditions:

(a) Jurisdiction shall be retained to modify, amend, or revoke approval at any time, or to take whatever other action may be appropriate in the public interest; [12]

(b) All schedule changes resulting from this agreement shall be reported to the Board within 7 days after the end of each month, in accordance with the format of Appendix A, below; copies of such reports shall be provided to all carriers requesting them;

(c) Within 15 days after the end of each calendar month, each applicant shall submit to the Board's Docket Section 3 copies of a report in the form required by Order 72–4–63 (April 13, 1972), stating for each market affected by this agreement and for each flight flown therein (including extra sections), by flight number, departure time, and aircraft type, the revenue passengers carried, number of seats flown, and load factor for each day of the week and for the month; and as an attachment to the

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[5] The Mandatory Fuel Allocation Program, which was applicable to the fuel used by airlines was adopted by the Energy Policy Office on October 12, 1973 (EPO Reg. 1, 32A CFR Ch. XIII, 38 FR 28660), effective November 1, 1973. A revised Mandatory Petroleum Allocation Program was adopted by the Federal Energy Office on January 14, 1974 (39 FR 1924). Domestic trunkline air carriers are now allocated 95 percent of the amount of fuel they used in the corresponding months of 1972 (10 CFR 211, Subpart H), and the 1972 usages were estimated to be 10 percent less than the amount of fuel that normally would have been required in 1973.

[6] Compare, Local Cartage Agreement Case, 15 CAB 850, 52–53 (1952).

[7] Compare, Order 73–11–50 (November 13, 1973), at page 4.

[8] As we have noted previously, the Board will not tolerate the transfer of freed-capacity to non-agreement markets. See Order 73–10–110.

[9] As noted above, at page 1, the discussions which led to this agreement were authorized by Board orders.

[10] See note 7, above.

[11] Our approval herein, based on the present sharp limitation on availability of aircraft fuel, involves considerations significantly narrower than the questions at issue in the pending investigation in Docket 22908. In this connection, we do not intend by our approval herein to limit in any way the issues presently being considered in that case. (See Order 73–11–84, November 19, 1974.)

[12] See note 5, above.

[13] The language of section 412(b) of the Act (49 U.S.C. 1382) requires the Board to disapprove any agreement, whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of the Act.

report, each applicant shall report the number of times an aircraft being operated in these markets departed with 95 percent or more of its seats filled and the flight number and dates of such flights; [14]

(d) Within 28 days after the date of service of this order, American, Eastern and Pan American shall file with the Board's Docket Section and shall provide to each carrier requesting one, a report containing the following additional data for each of the markets affected by this agreement:

a. Seats operated in 1972/1973 (November through June).

b. Passengers carried in 1972/1973.

c. Forecast passengers in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type to be operated in each market.

f. Calculations used in developing fuel savings in these markets.

g. 1972 fuel use by month for the system of each carrier.

h. 1972 fuel use by month in these agreement markets.

[14] For the purpose of the 95 percent reports, the applicants shall take into account both revenue and positive space non-revenue passengers. This report will enable the Board to monitor and analyze the carriers' load factors and schedules to insure that these markets are receiving a reasonable level of service.

(e) Schedule deletions resulting pursuant to the agreement herein approved which occur at John F. Kennedy International Airport and which result in the vacating of slots allocated by the Airline Scheduling Committees of that airport pursuant to authority granted in Order 72-11-72, shall not be refilled by the carrier applicants, nor be reallocated to other carriers by the Airline Scheduling Committees: *Provided, however,* That slots originally vacated may be reinstated by the vacating carrier to the extent such carrier vacates another flight at the same airport which operates plus or minus three hours of the flight to be reinstated.[15]

2. Except to the extent granted herein, all other requests relating to this agreement be and they hereby are denied.

This order shall be served on the United States Departments of Defense, Justice, and Transportation, the United States Postal Service, the Commonwealth of Puerto Rico, The Port Authority of New York and New Jersey, and all certificated route and supplemental air carriers. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[15] See Order 73-12-32 (December 7, 1973), at page 7.

APPENDIX A

| | Type of equipment | | | | |
|---|---|---|---|---|---|
| | 2-engine | 3-engine narrow body | 4-engine narrow body | 3-engine wide body | 4-engine wide body |
| **Agreement markets** | | | | | |
| Miles scheduled weekly in preceding general schedule filed with CAB. | | | | | |
| Changes contained in this general schedule | | | | | |
| Miles scheduled weekly in this general schedule. | | | | | |
| **Nonagreement markets** | | | | | |
| Miles scheduled weekly in preceding general schedule filed with CAB. | | | | | |
| Changes contained in this general schedule | | | | | |
| Miles scheduled weekly in this general schedule. | | | | | |

[FR Doc.74-3904 Filed 2-19-74;8:45 am]

[Docket No. 26282]

## HUGHES AIR CORP. AND HUGHES AIRWEST

### Notice of Proposed Approval

Application of Hughes Air Corp. d/b/a Hughes Airwest pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 26282.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order below under delegated authority. Interested persons are hereby afforded until February 28, 1974, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 14, 1974.

[SEAL] WILLIAM B. CALDWELL, Jr.,
*Director, Bureau of Operating Rights.*

ORDER OF APPROVAL

Hughes Air Corp. d/b/a Hughes Airwest requests that the Board disclaim jurisdiction exempt or approve, pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act) the sale by it to Union de Transportes Aerienne (UTA) of eight Fairchild F27A aircraft for $2,280,000.

In support of its request, Hughes Airwest states that the transaction will enable it to dispose of F27 aircraft at a time when they have become surplus because of service reductions resulting from the energy shortage; that the transaction was entered into after arm's length bargaining; that the transaction does not adversely affect the Hughes Airwest finances or its ability to perform its certificated service responsibilities and that it does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, create a monopoly and thereby tend to restrain competition or jeopardize another air carrier. Futhermore, Hughes Airwest asserts that the eight aircraft do not represent a substantial part of its properties since they constitute only 16.7 percent of its total aircraft, 2.2 percent of the market value of all its aircraft, and 4.6 percent of its available seat miles. Hughes Airwest is in the midst of a program to modernize its aircraft fleet by replacing its F27 aircraft with DC-9's.

No comments relative to the application have been received.

Notice of intent to dispose of this application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than one day following the date of service of such publication; both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing it is concluded that Hughes Airwest is an air carrier and that UTA is a person engaged in a phase of aeronautics both within the meaning of section 408 of the Act and that the transaction is subject to section 408(a)(2) thereof.[1] However, the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and thereby tend to restrain competition nor does it jeopardize another air carrier. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The transaction is similar to other sale and lease of aircraft by air carriers to foreign air lines which have been approved by the Board.[2] Under these circumstances the transaction does not appear inconsistent with the public interest,[3] nor are the requirements of section 408 otherwise unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.13 and 385.3 it is found that the transaction described herein should be approved under section 408 of the Act without a hearing and that the application otherwise should be dismissed.

*Accordingly, it is ordered* That:

1. The sale of eight F-27 aircraft by Hughes Airwest to UTA as described herein be and it hereby is approved; and

2. Except to the extent granted herein the application be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50 may file such petitions within ten days after the date of service of this order.

[1] The sale of these eight aircraft does not come within the rule of thumb expressed in Orders 70-11-13 and 14, November 4, 1970.

[2] Order 73-12-96, December 26, 1973, Docket 26144.

[3] In this regard we rely on the affirmations of Hughes Airwest that these aircraft are surplus to the service requirements of its certificate and Order 74-1-160, January 31, 1974.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.3987 Filed 2-19-74;8:45 am]

[Docket No. 24421]

## SERVICE TO SAIPAN CASE

### Notice of Reassignment of Hearing

In view of the request of Administrative Law Judge Milton H. Shapiro that he be relieved on medical grounds of his assignment (39 FR 5224, February 11, 1974), to the hearing in this proceeding pursuant to Order 74-1-149, the matter is hereby reassigned before Administrative Law Judge Greer M. Murphy. Presently fixed procedural dates, including those of prehearing conference and hearing, remain in effect. Further communications should be addressed to Judge Murphy.

Dated at Washington, D.C., February 13, 1974.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.74-3986 Filed 2-19-74;8:45 am]

# COMMISSION ON CIVIL RIGHTS

## MAINE STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:00 p.m. on February 26, 1974, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine 04331.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to hear progress reports from each Subcommittee of the Maine SAC.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.74-3994 Filed 2-19-74;8:45 am]

## NEVADA STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commisison on Civil Rights, that a planning meeting of the Nevada State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on February 26, 1974, at the Holiday Inn, 3740 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purposes of this meeting shall be (1) to review plans for the forthcoming factfinding meeting on prison conditions in the State of Nevada, and (2) to discuss problems in the Reno city schools.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.74-3995 Filed 2-19-74;8:45 am]

## NEW HAMPSHIRE STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulatons of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire State Advisory Committee (SAC) to this Commission will convene at 6:00 p.m. on March 4, 1974, at the New Hampshire Highway Hotel, Concord, New Hampshire 03301.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss final plans in preparation for the New Hampshire SAC's forthcoming meeting on penal institutions scheduled for March 7 and 8, 1974.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1974.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.74-3996 Filed 2-19-74;8:45 am]

## NEW HAMPSHIRE STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the New Hampshire State Advisory Committee (SAC) to this Commission will convene at 9:00 a.m. on March 7 and reconvene at 9:00 a.m. on March 8, 1974, in Conference Room 304 of the Federal Building, 55 Pleasant Street, Concord, New Hampshire 03301. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of New Hampshire with special emphasis on the conditions in New Hampshire penal institutions as they relate to the civil rights of inmates; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to New Hampshire penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin with respect to New Hampshire penal institutions; and to related areas.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 14, 1974.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.74-3997 Filed 2-19-74;8:45 am]

## NEW JERSEY STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the New Jersey State Advisory Committee will convene at 9:00 a.m. on February 21, 1974, in the Reception Area of the Youth Reception and Correction Center, Highbridge Road, Yardville, New Jersey 08620. These sessions shall be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of New Jersey with special emphasis on the conditions in New Jersey penal institutions as they relate to the civil rights of inmates; to appraise denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to New Jersey penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin with respect to New Jersey penal institutions; and to related areas.

A closed session to discuss matters which may tend to defame, degrade, or incriminate individuals will be held at

7:30 p.m. on February 20, 1974, at the Holiday Inn, Route 130, Bordentown, New Jersey 08505. This session will not be open to the public.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.74-3991 Filed 2-19-74;8:45 am]

## NEW JERSEY STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the New Jersey State Advisory Committee will convene on February 22, 1974, at 9:00 a.m. in Courtroom No. 3, Second Floor of the United States Courthouse and Post Office Building, 402 East State Street, Trenton, New Jersey 08608. These sessions shall be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of New Jersey with special emphasis on the conditions in New Jersey penal institutions as they relate to the civil rights of inmates; to appraise denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to New Jersey penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin with respect to New Jersey penal institutions; and to related areas.

A closed session to discuss matters which may tend to defame, degrade, or incriminate individuals will be held at 8:00 a.m. on February 22, 1974, in Courtroom No. 3, Second Floor of the United States Courthouse and Post Office Building, 402 East State Street, Trenton, New Jersey 08608. This session will not be open to the public.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.74-3992 Filed 2-19-74;8:45 am]

## NEW YORK STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 3:00 p.m. on February 19, 1974, in Room 1639, 26 Federal Plaza, New York, New York 10007.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to formulate plans for a proposed factfinding meeting on social services in the Asian American community.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.74-3989 Filed 2-19-74;8:45 am]

## NORTH CAROLINA STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Carolina State Advisory Committee (SAC) to this Commission will convene at 2:30 p.m. on February 22, 1974, at the Pullen Memorial Baptist Church, Hillsboro Street and Cox Avenue, Raleigh, North Carolina 27605.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE., Atlanta, Georgia 30303.

The purpose of this meeting shall be to formulate plans for a proposed factfinding meeting on penal institutions in the State of North Carolina.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1974.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.74-3993 Filed 2-19-74;8:45 am]

## RHODE ISLAND STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island State Advisory Committee (SAC) to this Commission will convene at 4:30 p.m. on February 20, 1974, at the Central Congregational Church, 296 Angell Street, Providence, Rhode Island 02906.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss a draft of the Rhode Island SAC report on state and local government.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 12, 1974.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.74-3990 Filed 2-19-74;8:45 am]

# ENVIRONMENTAL PROTECTION AGENCY

[OPP 32000/12]

## RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before April 22, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after April 22.

APPLICATIONS RECEIVED

EPA File Symbol 4-EEI. Bonide Chemical Co., Inc., 2 Wurz Avenue (Off Commercial Drive), Yorkville, New York 13495. *Bonide Rat Killer Bricks.* Active Ingredient: Diphacinone 0.005%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4-EGN. Bonide Chemical Co., Inc., 2 Wurz Avenue (Off Commercial Drive), Yorkville, New York 13495. *Bonide Zineb Fungicide,* Active Ingredient: Zineb (zinc ethylene bisdithiocarbamate) 75% (Metallic zinc equivalent 17.7%). Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 359-626. Chipman Division of Rhodia Inc., 120 Jersey Avenue, New Brunswick, New Jersey 08903. *Zolone WP.* Active Ingredient: Phosalone [O,O-diethyl S-[(6-chloro-2-oxo benzoxazolin-3-yl) methyl] phosphorodithioate] 25.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 240-ERE. Daly-Herring Company, P.O. Box 423 Kinston, North Carolina 28501. *25% Malathion Dust Base.* Active Ingredient: Malathion (O,O-dimethyl dithiophosphate of diethyl Mercaptosuccinate) 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 728-RRR. Pearson & Company, P.O. Box 7151, Mobile, Alabama 36607. *Pearson's Diel-Ram "H".* Active Ingredients: Heptachlor 25.000%; Related Compounds 9.247%; Thiram (Tetramethylthiuramdisulfide) 33.670%; Aluminum Powder 3.333%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 728-RRG. Pearson & Company, P.O. Box 7151, Mobile, Alabama 36607. *Pearson's Melon & Pine Seed Protectant "L".* Active Ingredients: Thiram (Tetramethylthiuramdisulfide) 64.27%; Lindane (Isomers of Benzene hexachloride) 0.89%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 728-RRE. Pearson & Company, P.O. Box 7151, Mobile, Alabama 36607. *Pearson's Seed-Saver "H".* Active Ingredients: Heptachlor 19.50%; Hardwood Oils 9.00%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated February 12, 1974.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.74-3798 Filed 2-19-74;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### PANEL 7—CTAC COMMITTEE

### Notice of Meeting

FEBRUARY 12, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Panel 7 Committee on Wednesday, February 20, 1974, to be held at MCI Telecommunications Corporation, 1150 17th Street NW., Washington, D.C., beginning at 9:30 a.m.

(1) Chairman's Report.
(2) Review of Minutes of November 13, 1973 Meeting.
(3) Report on Four Working Groups:
a. Group A: Television: R. Schwartz.
b. Group B: Non-Television: R. Gall.
c. Group C: Spectrum Utilization: C. Sampson.
d. Group D: Interconnection: H. Selvin.
(4) General Review and Discussion of Work to Date.
(5) Establish Milestones for Next Meeting.
(6) New Business.
(7) Establish Date, Time and Place for Next Meeting.

Any member of the public may attend or may file written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. S. B. Effros, FCC, 1919 M Street NW., Washington, D.C. 20554—Telephone: 202-632-6468.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Secretary.*

[FR Doc.74-3980 Filed 2-19-74;8:45 am]

## FEDERAL POWER COMMISSION

[Docket Nos. RI74-62, et al.]

### CHEVRON OIL CO. ET AL.

### Hearing on and Suspension of Proposed Changes in Rates, and Rate Changes To Become Effective Subject to Refund [1]

FEBRUARY 13, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

*Appendix—A*

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in docket No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI74-62 | Chevron Oil Co | 27 | [1] 1 to 11 | Transwestern Pipeline Co. (Kermit and South Kermit Fields, Winkler County, Tex.) (Permian Basin). | $9,923 | 1-14-74 | | [4] 4-15-74 | [2] 23.5825 | [2] 23.7396 | RI74-72. |
| RI74-62 | do | 28 | [1] 1 to 11 | do | 5,072 | 1-14-74 | | [4] 4-15-74 | [2] 23.5825 | [2] 23.7396 | RI74-62. |
| RI74-62 | do | 29 | [1] 1 to 11 | do | 125,191 | 1-14-74 | | [4] 4-15-74 | [2] 23.5825 | [2] 23.7396 | RI74-62. |
| RI74-154 | Mobil Oil Corp | 26 | 22 | El Paso Natural Gas Co. (Kermit Field, Winkler County, Tex.) (Permian Basin). | 4,599 | 1-21-74 | | 7-21-74 | [3] 35.50 | 37.91 | |

* Unless otherwise stated, the pressure base is 14.65 lb./in.²a.
[1] Substitute increase for prior increase to 29.6411 cents per M ft.³ filed Oct. 15, 1973 and suspended in Docket No. RI74-62.
[2] Subject to quality adjustments and gathering allowance, if applicable, pursuant to Opinion No. 662.
[3] Includes Btu adjustment.
[4] Date prior filing becomes ESR in Docket No. RI74-62.

The proposed rate increase of Mobil Oil Corporation exceeds the applicable area ceiling rates for the Permian Basin and is suspended for five months.

The remaining proposed increases are substitute increases based on a change in the amount of Btu adjustment and they are suspended subject to the existing suspension proceeding to be effective on the date the prior increase would become effective subject to refund.

[FR Doc.74-3952 Filed 2-19-74;8:45 am]

[Docket No. RP68-16]

## CITIES SERVICE GAS CO.

### Notice of Filing of Refund Report

FEBRUARY 12, 1974.

Take notice that on January 17, 1974, Cities Service Company (Cities) filed a report which, according to Cities, was required by paragraph (E) of the Commission's order issued January 30, 1969, in Docket No. RP68-16.

Cities states that the report consists of the following:

(a) A letter of explanation to the customers;

(b) A computation showing the amount of refund to jurisdictional customers; and

(c) A tabulation of sales to customer companies and the refund applicable to such sales.

Cities states that the report shows that it refunded to its jurisdictional customers entitled thereto a total of $1,101,673.97.

Cities states that copies of the report were mailed to each of the customers receiving a refund together with the refund check. Cities also states that a copy of the report has been mailed to state regulatory commissions having jurisdiction.

Cities enclosed with the the filing copies of releases from each of 39 of our customers with respect to such refund. Cities states that releases have not been obtained from 23 customers but will be mailed to the Commission upon receipt.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-3948 Filed 2-19-74;8:45 am]

[Docket Nos. RP69-6, etc.]

## EL PASO NATURAL GAS CO.

### Order Approving Settlement, Reserving Issue for Hearing, and Consolidating Dockets

FEBRUARY 14, 1974.

On June 29, 1973, the Presiding Administrative Law Judge certified to the Commission a proposed Stipulation and Agreement (Agreement) which purports to settle all issues in a number of dockets relating to the El Paso Natural Gas Company (El Paso) Southern Division System, except the issue of rate design in Docket No. RP72-150, which is proposed to be reserved for hearing contingent upon approval of the Agreement. The record includes the testimony and exhibits filed by El Paso and the Commission Staff in Docket No. RP72-150 on all issues other than rate design and further includes direct testimony of El Paso related to an Exploration and Development Fund proposal and cross examination of this testimony.

Public notice of the Agreement was issued on June 25, 1973, with comments due on or before August 24, 1973. The Commission Staff made oral comments upon the record at a pre-hearing conference on June 8, 1973, in which the Staff expressed its support of the proposed Agreement, while taking no position as to El Paso's proposed E & D Reserve Fund. All other comments filed were in support of the Agreement except those filed by Nevada Power Company (Nevada) on July 13, 1973, and Mr. W. M. Bennett of California (Mr. Bennett) on August 24, 1973. Nevada's and Mr. Bennett's objections relate only to the proposed E & D Reserve Fund and will be discussed below.

We shall describe briefly the proceedings in the dockets which would be affected by the proposed Agreement.

DOCKET No. RP69-6

This proceeding involves a $29,677,486 general increase for El Paso's Southern Division System and was phased for hearing and decision. The Phase I issues involved determination of (1) the appropriate rate of return for El Paso and (2) the proper method of calculating the amount of prepayments to be included in El Paso's rate base. Phase II involved the remaining cost of service issues. In addition to the $29.7 million rate increase, El Paso was permitted in Docket No. RP69-20, eight rate adjustments at various dates to reflect changes in the cost of gas purchased from Southern Division System producer-suppliers during the approximate 13 month locked-in period.

DOCKET No. RP70-11

This proceeding involves a $36,510,247 general increase for El Paso's Southern Division System. In addition to the $36.5 million rate increase, El Paso was permitted in this docket six rate adjustments at various dates to reflect changes in the cost of gas purchased from Southern Division System producer-suppliers during the approximate 12 month locked-in period. Like that in Docket No. RP69-6, this proceeding was also phased. Following waiver of the intermediate decision procedure as to the Phase I issues relating to rate of return and prepayments, the Commission consolidated the Phase I issues in both Docket Nos. RP 69-6 and RP70-11 and disposed of such issues through Opinion Nos. 582 and 582-A.[1] El Paso sought judicial review of Opinion Nos. 582 and 582-A in the United States Court of Appeals for the Fifth Circuit. The Court affirmed the Commission's Opinions.[2] The Phase II cost of service issues in Docket No. RP69-6 were consolidated for decisional purposes with those cost of service issues in Docket No. RP70-11 which were common with the Phase II cost of service issues in Docket No. RP69-6.

These issues were disposed of by Opinion Nos. 600 and 600-A[3] and El Paso has sought judicial review of these opinions in the United States Court of Appeals for the District of Columbia Circuit.[4]

The cost of service issues in Docket No. RP70-11 which were not common with those in Phase II of Docket No. RP69-6 were disposed of by Opinion No. 635,[5] together with like or common issues in Docket No. RP71-13, and El Paso has sought judicial review of this opinion in the United States Court of Appeals for the District of Columbia Circuit.[6]

DOCKET No. RP71-13

This proceeding involves a $43,917,654 general increase for El Paso's Southern Division System. The issues in this proceeding which were not common with those in Docket No. RP70-11 and disposed of by Opinion No. 635 were the subject of an initial decision of an Administrative Law Judge issued January 11, 1972. That decision is now before the Commission on exceptions. In addition to the $43.9 million rate increase, El Paso was permitted in this docket seven rate adjustments at various dates to reflect changes in the cost of gas purchased from Southern Division System producer suppliers.

DOCKET No. RP72-150

This proceeding involves a $5,895,052 general increase for El Paso's Southern Division System in effect for a locked-in period beginning January 1, 1973, and continuing through November 1, 1973.

[1] 44 FPC 73; 44 FPC 753.

[2] El Paso Natural Gas Company v. Federal Power Commission, 449 F. 2d 1245 (5th Cir. 1971).

[3] 46 FPC 454; 47 FPC.

[4] El Paso Natural Gas Company v. Federal Power Commission, No. 72-1645.

[5] 48 FPC ____. Rehearing denied by order issued January 13, 1973.

[6] El Paso Natural Gas Company v. Federal Power Commission, No. 73-1186.

In this proceeding, a prehearing conference was held on December 12, 1972, at which time El Paso's evidentiary case-in chief was submited for the record. On March 16, 1973, answering evidence of the Commission Staff was served.

DOCKET NO. RP72-155

This proceeding involves a purchased gas adjustment clause filed by El Paso, which was consolidated with Docket No. RP72-150 for the purposes of a determination as to whether the cost of service included in the filing at Docket No. RP72-150 justified approval of the purchased gas adjustment clause as filed.

OTHER AFFECTED PROCEEDINGS

In addition to the above dockets which involve major rate increases and the filing of PGA clauses, the agreement would also terminate proceedings in Docket Nos. RP72-130, RP72-153, RP73-15, RP73-19, RP73-20, RP73-21 and RP73-44 wherein El Paso proposed changes in various FS (Field Sales) rate schedules between itself and Pioneer Natural Gas Company and Southern Union Gas Company involving the proposed conversion of the rate charged under these various FS rate schedules to a basis keyed to the rate in effect from time to time under El Paso's Rate Schedule X-1.

The proposals in Docket Nos. RP72-130, RP72-153, RP73-15, RP73-19, RP73-20, and RP73-21 were accepted by the Commission, at various dates, subject to the outcome of the Docket No. RP71-13 proceedings, and the RP73-44 proposal was accepted subject to the outcome of the Docket No. RP72-150 proceedings.

Finally, Docket No. RP73-75 involves a complaint filed by Southwest Gas Corporation requesting that it be permitted to receive natural gas service from El Paso under Rate Schedule G, rather than under Rate Schedule A-1-X, which was consolidated with the Docket No. RP72-150 proceedings.

DISCUSSION

The settlement cost of service, rates and capitalizations applicable to the various dockets are shown in attached Appendices A through O. Within 45 days of Commission approval of the Agreement, El Paso will file a plan of refunds with the Commission applicable to the period March 7, 1969 through November 1, 1973. These refunds will be computed to individual customers based upon their purchases from El Paso during this refund period. The parties have agreed to reserve for trial the issue of jurisdictional rate design in Docket No. RP72-150 and have provided that upon the final determination by the Commission of the reserved rate design issue, refunds, if any, including interest at 7 percent per annum, shall be determined by comparing total charges to each customer computed at such ultimately determined rates as applied to actual billing determinants, with total charges to each customer computed at the settlement rates provided in Docket No. RP72-150.

El Paso proposes to establish a reserve fund to support El Paso's exploration activities over and above presently budgeted activities. Funds for this reserve are to be established by providing, as part of the settlement cost of service in Docket No. RP71-13, an allowance for exploration expense calculated by including a charge of 1.28¢ per Mcf for the sales volumes associated with the locked-in period for that docket. This allowance, so calculated totals $31.5 million for that locked-in 31 month period of which $17.1 million is reflected in the settlement cost of service.

Once the reserve fund is established, seventy-five (75) percent of exploration expenses associated with unsuccessful ventures and located in certain areas are proposed to be charged to that Reserve. In future rate determinations concerning successful ventures, 75 percent of production obtained from leases acquired on or after October 8, 1969, which are unproven as of the effective date of the Agreement and leases acquired after such effective date shall be accorded cost of service treatment and the remaining 25 percent of such production shall be accorded area rate treatment.

Nevada and Mr. Bennett filed objections to the proposed Agreement taking exception to the establishment of the "E & D Reserve Fund" provision. Nevada states that absent the establishment of the "E & D Reserve Fund", El Paso would be required to refund approximately $62.8 million of excessive rates and charges made and collected in Docket No. RP71-13 during the locked-in period March 31, 1971, through December 31, 1972. Of this amount, El Paso proposes to refund only $31.3 million and utilize $31.5 million to underwrite a portion of its unsuccessful exploratory efforts as set out in the agreement.

Nevada argues that: (1) Under section 4(e) of the Natural Gas Act, the refund of excessive rates and charges is mandatory, and the Commission has no discretion to permit retention thereof; and (2) even assuming the Commission does have discretion, it would be an abuse of that discretion in this instance to allow the Company to retain dollars which would otherwise be refunded.

Nevada supports its arguments by stating its view that the proposed retention of $31.5 million comes from the excessive revenues collected during the locked-in period and not from the cost of service, as El Paso claims, since the additional 1.28¢ per Mcf E & D allowance was not part of the rates filed and collected subject to refund in Docket No. RP71-13. Further, Nevada states that under the proposal, there is no commitment by El Paso that the consumers are to be beneficiaries of additional volumes, or that El Paso would pay back the consumers' capital contributions to the extent that no new dedications of gas materialize, or that El Paso would commit greater sums to exploration than it now intends to spend. Thus, the burden of absorbing the risks, according to Nevada, shifts from El Paso to the consumers. Nevada also argues that, since its requirements are classified as low priority and, therefore, subject to substantial curtailment, chances are that Nevada's involuntary contribution to the "E & D Fund" will result in very little, if any, benefit to them.

Mr. Bennett filed general comments in opposition to the utilization of refund dollars to establish an "E & D Reserve Fund". Mr. Bennett opposes the establishment of the Fund utilizing withheld refund dollars as: (1) Being contrary to law, (2) an abuse of the Commission's discretion, and (3) in excess of the jurisdiction of this agency.

Our review of the proposed Agreement, the Comments filed by the various parties, the cost of service and capitalization filed in support of the Agreement, and the record as certified on June 29, 1973, indicates that the resolution of the issues effected by the Agreement is in the public interest and the rates proposed therein are not excessive. We shall therefore accept the Agreement and permit the tariff sheets proposed therein to become effective pursuant to the terms of the Agreement. El Paso states, and we shall so direct, that within 45 days following the date upon which the order of the Commission approving the Agreement becomes final and no longer subject to judicial review, it will file with the Commission a report of refunds due its jurisdictional customers, computed as the difference between the rates collected during the various periods covered by the subject dockets and the settlement rates shown in the attached Appendices[7] applied to actual volumes delivered.

With regard to the objections of Nevada and Mr. Bennett, we indicated in Opinion No. 666, Mississippi River Transmission, we shall consider the record in i individual cases in the light of our responsibilities under the Natural Gas Act to assure an adequate and continuing gas supply to the nation's consumers at the lowest reasonable cost. Essentially, the principle we have established is that in return for the higher rate, customers must receive compensatory benefit. We have not required that the benefit in each case must be devised in the same manner. The primary benefit associated with the establishment of the Fund is, of course, that such exploration and development efforts may yield additional new reserves whose benefits would inure to the entire system. Moreover, if oil is discovered, the Agreement provides that the customers will receive a credit to cost of service of 75 percent of revenues resulting from the sale of such oil.

Nevada complains that it would receive very little of any gas which may become available as a result of the E & D Fund since its use of gas has been adjudged by this Commission to be of low priority.[8] If we were to accept Nevada's rationale, this Commission would be frustrated in its attempt to establish programs for exploration and development of new gas reserves since on every pipeline system relative priorities for the use of gas have

[7] Filed as part of the original document.

[8] See: curtailment proceedinis in Docket No. RP72-6.

been established. Significantly, Southwest Gas Corporation, purchasing directly from El Paso and selling to Nevada, has not objected to the E & D Fund. Moreover, no customer of El Paso or state Commission objected to the proposed Agreement. We do not believe that the objections raised by either Nevada or Mr. Bennett (which are substantially similar to Nevada's) warrant the elimination of the proposed E & D Fund.

We disagree that section 4(e) of the Natural Gas Act would prohibit this Commission from using its discretion in encouraging exploration and development through a vehicle such as the proposed E & D Fund contained in this Agreement. It would seem to the Commission that it is only of semantical importance whether the retention of funds associated with the E & D proposal is viewed as a portion of the excessive rates and charges collected in Docket No. RP71–13 as Nevada claims, or whether it is viewed as an allowance for exploration in the Docket No. RP71–13 cost of service, as El Paso contends. During a period of continuing and acute shortage of natural gas, we believe that the public interest requires that this Commission encourage exploration and development to the fullest extent consistent with its regulatory powers and responsibilities.

Finally, we note that general rate increases related to the Southern Division system and filed in Docket Nos. RP73–104 and RP74–57 were consolidated along with Docket No. RP73–84 by Commission order of January 8, 1974, and procedural dates were directed therein. We believe that the issue of rate design reserved for hearing in the Agreement should be consolidated with this on-going proceeding in the interests of avoiding relitigation of the issue of proper rate design for the Southern Division System.

*The Commission finds.*

(1) Approval, as hereinafter ordered, of the settlement in these proceedings on the basis of the Agreement certified on June 29, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act and the tariff sheets included therein should be made effective pursuant to the provisions of such Agreement.

(2) Good cause exists to consolidate the issue of rate design reserved for hearing under the terms of the Agreement with the proceeding in Docket Nos. RP 73–104 and RP74–57.

*The Commission orders.*

(A) El Paso's motion for approval of the proposed Agreement is granted, the proposed Settlement Agreement incorporated by reference herein is accepted, and the tariff sheets included therein shall become effective pursuant to the terms of such Agreement.

(B) El Paso shall comply with all terms and conditions of the Agreement.

(C) The issue of rate design reserved for hearing in Docket No. RP72–150 under the terms of the Agreement shall be consolidated with the proceeding presently set in Docket Nos. RP73–104 and RP74–57, and shall follow the procedural schedules as presently directed therein.

((D) El Paso shall file within 45 days following the date upon which this order becomes final a report of refunds due its jurisdictional customers as per the terms and conditions of the Agreement approved herein.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–3946 Filed 2–19–74;8:45 am]

[Docket No. E–8618]

## IOWA-ILLINOIS GAS AND ELECTRIC CO.

### Notice of Filing of Participation Agreement

FEBRUARY 13, 1974.

Take notice that Iowa-Illinois Gas and Electric Company (Company), on February 4, 1974, filed a Participation Power Agreement between Board of Water and Light Trustees, Muscatine, Iowa (Board), Company, and Iowa Power and Light Company (Iowa Power), proposed to become effective May 1, 1974.

Company states that the Agreement provides for participation power and energy transactions from Board's Muscatine Generating Station to, and through, Company's system to Iowa Power during periods and for quantities stated in the Agreement. According to Company, purchases are provided for the periods May through October in the years 1974–1978, inclusive, as may be modified by Board to increase or reduce quantities available to specified amounts. Company further states that of the stated amounts of capacity to be purchased by Company, Iowa Power is entitled to 20 MW for the period May through October, 1974, and up to 15 MW for the period May through October 1976. Participation capacity charges billed Iowa Power by Company for periods of Iowa Power's entitlement are those billed Company by Board. The rate is, and will be, identical with that for similar service in the MAPP Agreement, Schedule B (Iowa-Illinois Rate Schedule FPC No. 33), according to Company. Company additionally stated that the participation energy charge, or charge for substitute energy, are based on incremental cost plus 10 percent, a standard rate in other agreements to which the parties of this Agreement are parties.

Company alleges that copies of the filing were mailed to the other parties to the Agreement, and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–3947 Filed 2–19–74;8:45 am]

[Docket No. CP72–251]

## NORTHERN NATURAL GAS CO.

### Modification of Draft Environmental Impact Statement

FEBRUARY 13, 1974.

This case concerns a proposed underground project for the storage of natural gas in Dallas County, Iowa. The Northern Natural Gas Company has applied for a certificate of public convenience and necessity to permit it to carry out a testing program for the project, and it has indicated that if the test results are in its judgment satisfactory, it will thereafter apply to us for a certificate authorizing the construction of the full project.

The application before us relates to the testing program only. That application, initially filed on April 24, 1972, has since been the subject of numerous supplements, as well as of a major amendment filed on September 5, 1973. On the basis of these filings, our Staff prepared and issued on December 10, 1973, a Draft Environmental Impact Statement, such statement having been designed to assess the environmental impacts of the full project, not just its testing phase. We think this coverage appropriate, inasmuch as we would be unwilling to grant a certificate for testing, even though the environmental impacts of such testing might themselves be acceptable, if the record developed with respect to the testing application were sufficient to permit us to conclude also that the environmental impacts of the full project were not acceptable.

During the interval between the filing of Northern's amendment on September 5, 1973, and the issuance of the Draft Environmental Impact Statement on December 10, 1973, Northern has conducted further drilling in the pertinent area, drilling for which it is not required to obtain an authorization from us. As a result of such drilling, the dimensions of the proposed, full storage project have been expanded. These new dimensions were first revealed when Northern, on December 10, 1973, filed its prepared testimony for the hearing in this case, then scheduled to commence on January 7, 1974, as provided in our order issued October 26, 1973. That prepared testimony indicated that the full project is now expected to involve 2,400 more acres than were contemplated in the September 5 amendment, and that a portion of the additional acreage would lie under the town of Adel, Iowa. As a consequence of these changes in the full project, the Environmental Statement issued on December 10, being directed

toward a lesser project, is no longer adequate.

As a result of the information contained in Northern's evidentiary submittal of December 10, two motions have been filed with us. On December 18 our staff moved that the scheduled hearing dates—January 7, 1974, in Washington, and March 18, 1974, in Des Moines, the latter date having been fixed in our order of December 14, 1973—be indefinitely postponed. Such dates were indefinitely postponed by notice issued December 28. The Staff further asked that Northern be directed to amend its application to disclose fully the new details of the full project, viz,

> * * * the additional land area affected, any additional injection-withdrawal wells proposed in this area; any environmental impacts and any safety hazards which might be encountered in the residential area of Adel, Iowa, the measures proposed to be taken to mitigate any such effects, and the relationship of the proposed storage field to the existing Redfield Storage Field.

Northern answered that its application had not been changed, so an amendment is unnecessary, but it expressed its willingness "to file the data referred to by the Staff as a supplement to its application". A second motion, filed January 18, 1974, by the Dallas County Gas Storage Association, an intervenor, asks that the period during which comments may be filed on the Draft Environmental Impact Statement be extended, pending Northern's amendment of its application and the Staff's corresponding revision of the Statement.

We believe that further information must be filed by Northern, in light of the significant changes recently made in the full project, and we further believe that the Draft Environmental Impact Statement should be revised in light of it. Whether the Statement may merely be amended, or whether it requires total revision, we leave to our Staff to answer, based on its assessment of the information to be hereafter filed by Northern. We understand that Northern's application for its testing program is itself unchanged, and we will not, therefore, require that Northern amend its application as such; but inasmuch as its application, as amended on September 5, 1973, contains environmental information pertaining to a post-test project that is no longer proposed, we must ask Northern to revise its environmental report to reflect fully its current plan.

Hearings should be rescheduled to commence soon, and we will ask the Presiding Administrative Law Judge to fix appropriate dates. We think it would be desirable, but not essential, if a new or revised Draft Environmental Impact Statement were issued and were the subject of notice before such hearings commence. It is in our view not essential, for the testing program is unchanged; but it would be desirable, inasmuch as all who may have an interest in the full, revised project would then have notice of its dimensions at the earliest, feasible procedural stage. In any event, our procedures make clear that a Final Environmental Impact Statement by our Staff will be required before the hearings on the testing application conclude, for such a Final Statement must be submitted in evidence and an opportunity for cross-examination on it must be afforded. Further, it is of course entirely clear that if a certificate for testing is granted, and if Northern later concludes that it will apply for authority to construct the full project, then an entirely new proceeding, with further hearings, and with a reassessment of environmental issues, will be required. New interventions would then be invited. In short, there will be numerous opportunities for concerned individuals to make their positions known.

We therefore ask the Presiding Administrative Law Judge to convene a further pre-hearing conference, in order to establish a schedule for the submission of further information, inclusive of environmental data, from Northern concerning the project as Northern now envisions it, and for the issuance of and notice concerning a new or revised Draft Environmental Impact Statement by our Staff. The date for the issuance of the new or revised Staff Draft Environmental Impact Statement should be approximately 45 days following the filing of Northern's further environmental information. In light of those dates, we further ask the Presiding Administrative Law Judge to fix the dates for hearings to commence in both Washington, D.C. and Des Moines, Iowa. If a new or revised Draft Environmental Impact Statement can be expected reasonably soon, then the hearings should be delayed until it is available. But if considerable delay would thereby result, we ask that the hearings be scheduled to begin before the new Statement is issued. We will also at this time afford an opportunity for further interventions.

We are anxious to have this case move forward. Although the project, if it were to be authorized, would take several years to construct, we believe that it may represent a means of assisting in alleviating the natural gas shortage. That being so, we hope that all parties will cooperate in moving this application forward toward an early decision.

Finally, we observe that in a case such as this, involving a testing phase, there are inherent difficulties in maintaining an always-current Environmental Impact Statement. The new or revised Draft Environmental Impact Statement that our Staff will issue in this case is not likely to reflect the full project for which Northern may later, after testing, apply. Similarly, as Northern conducts drilling in the weeks and months to come, the full project as even now foreseen may be changed. Because that is so, it may be impossible for the Environmental Statement for the full project to coincide at all times and in all details with the full project as then envisioned by Northern. The two cannot always move in lockstep. By the action we take today, we therefore do not mean to suggest that, with every future change in Northern's plans, we will act to halt this proceeding. We would expect to do so only if as here, the changes are of great moment.

*The Commission orders.*

(A) The motions filed by the Staff on December 18, 1973, and by the Dallas County Gas Storage Association on January 18, 1974, are granted to the extent set forth above.

(B) The Presiding Administrative Law Judge should convene a further prehearing conference so as to fix dates at which hearings in this case shall commence in Washington, D.C., and in Des Moines, Iowa, such dates to be fixed in light of the dates on which Northern will file further environmental data and on which a new or revised Draft Environmental Impact Statement will become available.

(C) All interested persons desiring to be heard in this proceeding who are not already parties may file appropriate petitions to intervene on or before February 28, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-3959 Filed 2-19-74;8:45 am]

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[Docket No. G-3396, etc.]

## SKELLY OIL CO. ET AL.

### Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

FEBRUARY 12, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 8, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| G-9396 C 1-23-74 [1] | Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102. | El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex. | [2] [3] 20.64 | 15.025 |
| G-9980 CF 12-26-73 | Atlantic Richfield Co. (successor to Cities Service Oil Co.), P.O. Box 2819, Dallas, Tex. 75221. | Natural Gas Pipeline Co. of America, Northwest Camrick, Camrick Field, Texas and Beaver Counties, Okla. | [4] 19.7925 | 14.65 |
| G-15912 D 1-23-74 | Skelly Oil Co | El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex. | [5] | |
| CI61-287 E 1-22-74 | Eason Oil Co. (successor to Monla Gas Co., Inc.), P.O. Box 18755, Oklahoma City, Okla. 73118. | Texas Gas Transmission Corp., Monroe Field, Ouachita, Union, and Morehouse Parishes, La. | 17.3 | 15.025 |
| CI61-727 E 1-23-74 | Texas International Petroleum Corp. (Operator), et al. (successor to (Amerada Hess Corp.), P.O. Box 4520, Shreveport, La. 71104. | Texas Gas Transmission Corp., Bayou Chevreuil Field, Lafourche and St. John the Baptist Parishes, La. | [6] 23.25 | 15.025 |
| CI62-1330 E 1-16-74 | Wood, McShane & Thams (successor to Shell Oil Co.), P.O. Box 1228, Midland, Tex. 79701. | El Paso Natural Gas Co., Leonard Queen South Field, Lea County, N. Mex. | [6] 15.0 | 14.65 |
| CI66-615 E 1-22-74 | Eason Oil Co. (successor to Monla Gas Co., Inc.). | Arkansas Louisiana Gas Co., North Carlton Area, Ouachita Parish, La. | [6] 20.0 | 15.025 |
| CI73-451 D 1-31-74 [8] | Mobil Oil Corp. (Operator) et al., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046. | Texas Eastern Transmission Corp., Provident City Field, Lavaca County, Tex. | [9] | |
| CI74-165 (CS71-394) F 7-13-73 | Sun Oil Co. (successor to Anchor Production Co.), P.O. Box 2880, Dallas, Tex. 75221. | Panhandle Eastern Pipe Line Co., Northwest Avard Field, Woods County, Okla. | [10] 18.448 | 14.65 |
| CI74-321 (CI66-884) F 11-14-73 [11] | Seaboard Well Service, Inc. (successor to Austral Oil Co., Inc., et al.), P.O. Box 51286, OCS, Lafayette, La. 70501. | Trunkline Gas Co., East Bancroft Field, Beauregard Parish, La. | [4] [11] 18.0 | 15.025 |
| CI74-378 (CI69-48) F 1-16-74 [12] | Petro-Lewis Funds, Inc. (successor to Forest Oil Corp.), 1600 Broadway, Denver, Colo. 80202. | United Fuel Gas Co., Northeast Bourg Field, Lafourche Parish, La. | [4] [12] 23.75 | 15.025 |
| CI74-380 (CI62-910) B 1-10-74 | Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001. | Texas Gas Pipe Line Corp., North Big Hill Field, Jefferson County, Tex. | Depleted | |
| CI74-381 B 1-10-74 | Fourway Oil Co., P.O. Drawer 2185, Longview, Tex. 75601. | Atlantic Richfield Co., Abell Field, Pecos County, Tex. | [13] | |
| CI74-382 (CI73-451) F 1-10-74 | J-W Operating Co. (successor to Mobil Oil Corp.) Suite 542, 10303 Northwest Freeway, Houston, Tex. 77018. | Texas Eastern Transmission Corp., Provident City Field, Lavaca County, Tex. | [14] 25.0 | 14.65 |
| CI74-383 (CI65-11) B 1-11-74 | Geological Exploration Co., P.O. Box 1644, Longview, Tex. 75601. | Lone Star Gas Co., Penn Griffith/ Pettit Field, Rusk County, Tex. | Depleted | |
| CI74-384 (G-4073) B 1-11-74 | Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Alamo Field, Hidalgo County, Tex. | Depleted | |
| CI74-386 A 1-18-74 | Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102. | El Paso Natural Gas Co., L. Rentz No. 4 Unit, Rio Arriba County, N. Mex. | [14] 28.5 | 15.025 |
| CI74-387 (CI71-834) B 1-21-74 | Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001. | Pioneer Gas Products Co., Northwest Madill Field, Marshall County, Okla. | Contract terminated | |
| CI74-388 (CI71-883) B 1-21-74 | Exxon Corp., P.O. Box 2180, Houston, Tex. 77001. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., East Pita Field, Kenedy County, Tex. | Nonproductive | |
| CI74-389 (CI63-621) B 1-21-74 | do | Natural Gas Pipeline Co. of America, South Angleton Field, Brazoria County, Tex. | Nonproductive | |
| CI74-390 (G-8523) B 1-21-74 | do | Lone Star Gas Co., Red Springs Field, Smith County, Tex. | [15] | |
| CI74-391 (G-3486) B 1-21-74 | Phillips Petroleum Co., Bartlesville, Okla. 74004. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Lissie Field, Colorado and Wharton Counties, Tex. | Nonproductive | |
| CI74-392 A 1-23-74 | Exxon Corp. | Columbia Gas Transmission Corp., Eugene Island Block 314 Field, offshore Louisiana. | [16] 50.0 | 15.025 |

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| CI74-394 (CI72-53) B 1-25-74 | Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001. | Lone Star Gas Co., East Aylesworth Field, Bryan County, Okla. | (1) | ---------- |
| CI74-395 (CI62-134) B 1-25-74 | The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112. | Valley Gas Transmission, Inc., East Alta Mesa Field, Brooks County, Tex. | Nonproductive | ---------- |
| CI74-396 (CS72-739) F 1-15-74 | Union Texas Petroleum, a division of Allied Chemical Corp. (successor to Southern Hydrocarbons Production Co., Inc.). | Transcontinental Gas Pipe Line Corp., Orange Grove Field, Terrebonne Parish, La. | [2] 20.875 | 15.025 |
| CI74-397 (CS72-733) F 1-15-74 | do | Columbia Gas Transmission Corp., Orange Grove Field, Terrebonne Parish, La. | [3] 20.875 | 15.025 |
| CI74-399 (RI67-89) B 1-17-74 | Petroleum Corp. of Texas (Operator) et al., P.O. Box 911, Breckenridge, Tex. 76024. | South Texas Natural Gas Gathering Co., South Donna Field, Hidalgo County, Tex. | Depleted | ---------- |
| CI74-400 (CS72-455) B 1-23-74 | Oleum Inc., Drawer 2232, Longview, Tex. 75601. | Cities Service Gas Co., North Norman Prue Field, Cleveland County, Okla. | Depleted | ---------- |
| CI74-401 (CS72-455) B 1-23-74 | do | do | Depleted | ---------- |
| CI74-402 (CS71-338) B 1-24-74 | Caruthers Operating Co., Inc., 505 Louisiana Bank Bldg., Shreveport, La. 71101. | Southwest Gas Producing Co., Lisbon Field, Claiborne Parish, La. | Contract terminated | ---------- |
| CI74-403 (G-12257) F 1-28-74 | Graham-Michaelis Drilling Co. (successor to Skelly Oil Co.), P.O. Box 247, Wichita, Kans. 67201. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Hugoton Field, Finney County, Kans. | [13] 13.5 | 14.65 |
| CI74-404 (G-5303) F 1-28-74 | do | Kansas-Nebraska Natural Gas Co., Inc., Hugoton Field, Finney County, Kans. | [20] 13.0 | 14.65 |

[1] This acreage is being added to the contract in consideration for El Paso agreeing to release acreage which is the subject of an application to delete acreage being filed concurrently herewith in Docket No. G-15912.
[2] Applicant is willing to accept a certificate at an initial rate of 20.14 cents per M ft³, subject to upward and downward Btu adjustment; however, the contract price is 20.64 cents per M ft³, subject to upward and downward Btu adjustment.
[3] Rate in effect subject to refund in Docket No. RI74-114.
[4] Subject to downward Btu adjustment.
[5] This acreage is being deleted from the contract in order to be added to another contract which is the subject of an application to add acreage being filed concurrently herewith in Docket No. G-9396.
[6] Subject to Btu adjustment.
[7] Subject to upward Btu adjustment; estimated adjustment is 2.1 cents per M ft³.
[8] Amendment to a pending application.
[9] Acreage assigned to United Oil and Gas Co. and J. C. West.
[10] Inclusive of Btu adjustment and tax reimbursement.
[11] Being renoticed, because by revised contract summary filed Jan. 25, 1974, Applicant reflects a correction in the price.
[12] Being renoticed, because by letter filed Jan. 23, 1974, Applicant shows a correction in the price.
[13] Applicant states that the well on the lease which is the subject of the contract will be reworked and an attempt made to complete it in another zone.
[14] Subject to upward and downward Btu adjustment.
[15] Applicant's interest in leases covered by the contract have either been assigned to others or canceled.
[16] Subject to upward Btu adjustment; estimated adjustment is 5.0 cents per M ft³.
[17] Assigned to Pioneer Gas Products Co.
[18] Subject to upward and downward Btu adjustment; estimated adjustment is 0.3750 cents per M ft³.
[19] Subject to downward Btu adjustment; estimated adjustment is 2.00 cents per M ft³.
[20] Subject to downward Btu adjustment; estimated adjustment is 1.27 cents per M ft³.

[FR Doc.74-3891 Filed 2-19-74;8:45 am]

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[Rate Schedule Nos. 107, etc.]

## TEXAS OIL & GAS CORP., ET AL.

### Notice of Rate Change Filings

FEBRUARY 12, 1974.

Take notice that the producers listed in the Appendix A attached below have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix below.

Any person desiring to be heard or to make any protest with reference to said filings should on or before February 28, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

| Filing date | Producer | Rate schedule No. | Buyer | Area |
|---|---|---|---|---|
| Jan. 18, 1974 | Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201. | 107 | Texas Eastern Transmission Corp. | Texas Gulf Coast. |
| Jan. 21, 1974 | American Petrofina Co. of America, P.O. Box 2159, Dallas, Tex. 75221. | 72 | Tennessee Gas Pipeline Co. | Do. |
| Do | Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001. | 16 | El Paso Natural Gas Co. | Permian Basin. |
| Do | Sohio Petroleum Co., 1100 Penn Tower, Oklahoma City, Okla. 73118. | 24 | Texas Gas Transmission Corp. | Texas Gulf Coast. |
| Jan. 22, 1974 | Tenneco Oil Co., Tenneco Bldg., P.O. Box 2511, Houston, Tex. 77001. | [1] 289 | United Gas Pipe Line Co. | Other Southwest. |
| Jan. 24, 1974 | Ruth Phillips Bisiker, 1407 Main St., Suite 1300, Dallas, Tex. 75202. | 4 | Transcontinental Gas Pipe Line Corp. | Texas Gulf Coast. |
| Do | Grampian Co., Ltd., 1407 Main St., Suite 1300, Dallas, Tex. 75202. | 4 | do | Do. |
| Jan. 29, 1974 | Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001. | 10 | Lone Star Gas Co. | Other Southwest. |
| Do | Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221. | 262 | United Gas Pipe Line Co. | Texas Gulf Coast. |
| Do | do | 306 | do | Do. |
| Jan. 31, 1974 | Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001. | [2] 400 | Texas Eastern Transmission Corp. | Do. |
| Do | Reserve Oil & Gas Co., 1806 Fidelity Union Tower, Dallas, Tex. 75201. | 26 | Transcontinental Gas Pipe Line Corp. | Do. |
| Feb. 1, 1974 | Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221. | 303 | Tennessee Gas Pipeline Co. | Do. |
| Do | Barnwell, Inc., P.O. Box 1748, Shreveport, La. 71166. | 1 | Arkansas Louisiana Gas Co. | Other Southwest. |
| Feb. 4, 1974 | Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052. | 13 | Kansas-Nebraska Natural Gas Co. | Hugoton-Anadarko. |
| Do | do | 98 | do | Do. |
| Feb. 5, 1974 | Acoma Oil Corp., Hamm Bldg., St. Paul, Minn. 55102. | 1 | Tennessee Gas Pipeline Co. | Texas Gulf Coast. |

[1] Tentative designation of new contract to cover sales formerly made under Tenneco Oil Co. FPC gas rate schedules Nos. 87, 88, and 90.
[2] Tentative designation. Involves sales presently made under Shell Oil Co. FPC gas rate schedule numbers.

[FR Doc.74-3890 Filed 2-19-74;8:45 am]

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[Docket Nos. RP71-29 and RP71-120]

## UNITED GAS PIPE LINE CO.

### Filing of Revised Tariff Sheets

FEBRUARY 12, 1974.

Take notice that on January 21, 1974, United Gas Pipe Line Company (United) tendered for filing Substitute Second Revised Sheet No. 72-A and Substitute Third Revised Sheet No. 72-A and simultaneously gave notice that it was withdrawing its Second Revised Sheet No. 72-A and Third Revised Sheet No. 72-A pursuant to the Commission order of January 11, 1974.

According to United, the Commission's objection to the two sheets which it is withdrawing was a section entitled "Substitute Fuel Payment Obligations" which United states has been eliminated from the two substitute sheets it is now filing. United requests that because Second Revised Sheet No. 72-A (being withdrawn) has been in effect subject to refund since June 1, 1972, it be given an effective date of June 1, 1972, for its Substitute Second Revised Sheet No. 72-A. Also, United alleges that because the ordered date for Third Revised Sheet No. 72-A (being withdrawn) was January 15, 1974, it is necessary, in order for its FPC Gas Tariff, First Revised Volume No. 1 to be complete, that its Substitute Third Revised Sheet No. 72-A be given an effective date of January 15, 1974, and United requests that such effective date be given. Both substitute sheets are to be a part of United's FPC Gas Tariff, First Revised Volume No. 1.

In addition, United requests that §§ 154.22 and 154.51 of the Commission's regulations be waived.

United alleges that copies of this filing have been mailed to each party to these proceedings (RP71-29, RP71-120), to each of United's customers, and to the regulatory commissions of Louisiana, Texas, Alabama, Mississippi and Florida.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-3949 Filed 2-19-74;8:45 am]

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# FEDERAL RESERVE SYSTEM

## AMERICAN BANCORPORATION

### Acquisition of Bank

American Bancorporation, Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares (less directors' qualifying shares) of The American Bank of Central Ohio, Harrisburg, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Notice of subject application was published in the FEDERAL REGISTER on September 27, 1973 (38 FR 27550). Additionally, in accordance with section 3(b) of the Act (12 U.S.C. 1842(b)), notice of receipt of subject application was duly given to the Superintendent of Banks of the State of Ohio. Within the time prescribed by law, the Superintendent submitted to the Board in writing his statement expressing disapproval of the application. Accordingly, the Board, on October 25, 1973, ordered that a hearing be held on subject application pursuant to section 3(b) of the Act (38 FR 29650). The hearing commenced November 15, 1973, at the Federal Reserve Bank of Cleveland, at which time the Administrative Law Judge granted Applicant's unopposed motion for a continuance in order that Applicant might prepare and submit to the Board amendments to subject application.

Notice is hereby given that the amendments have been received by the Board and the application, as amended, may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the amended application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 28, 1974.

Board of Governors of the Federal Reserve System, February 13, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-4016 Filed 2-19-74;8:45 am]

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## FARMERS AND MERCHANTS BANCSHARES, INC.

### Formation of Bank Holding Company

Farmers and Merchants Bancshares, Inc., Crescent, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Farmers and Merchants Bank, Crescent, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at

the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than March 6, 1974.

Board of Governors of the Federal Reserve System, February 7, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-3968 Filed 2-19-74;8:45 am]

## FIRST HAWAIIAN, INC.

### Formation of Bank Holding Company

First Hawaiian, Inc., Honolulu, Hawaii, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First Hawaiian Bank, Honolulu, Hawaii. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than March 8, 1974.

Board of Governors of the Federal Reserve System, February 8, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-3969 Filed 2-19-74;8:45 am]

## FIRST MELVILLE BANCORP, INC.

### Formation of Bank Holding Company

First Melville Bancorp, Inc., New Bedford, Massachusetts, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of New Bedford, New Bedford, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than February 27, 1974.

Board of Governors of the Federal Reserve System, February 8, 1974.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.74-3970 Filed 2-19-74;8:45 am]

## SOUTHEAST BANKING CORP.

### Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Pinellas Central Bank and Trust Company, Largo, Florida, and The Security Bank, Pinellas Park, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 7, 1974.

Board of Governors of the Federal Reserve System, March 9, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-3972 Filed 2-19-74;8:45 am]

## TEXAS COMMERCE BANCSHARES, INC.

### Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Commerce Medical Bank, Houston, Texas, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than March 4, 1974.

Board of Governors of the Federal Reserve System, February 7, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-3967 Filed 2-19-74;8:45 am]

## TEXAS COMMERCE BANCSHARES, INC.

### Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Southeast Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Texas Commerce Bancshares, Inc., is also engaged in nonbank activities including the ownership of properties, which include properties acquired for previous debts; approximately 17 acres of land acquired for future expansion purposes; a parking garage serving outside customers; land and an office building adjacent to its subsidiary banking office (leased to tenants); and leasehold improvements on a building sublet to tenants which is located adjacent to Applicant's subsidiary bank. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 11, 1974.

Board of Governors of the Federal Reserve System, February 11, 1974.

[SEAL] ELIZABETH L. CARMICHAEL,
*Assistant Secretary of the Board.*

[FR Doc.74-3971 Filed 2-19-74;8:45 am]

# GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temp. Reg. D-44]

## ENERGY CONSERVATION

### Federally Occupied Buildings and Facilities

1. *Purpose.* This regulation notifies Federal agencies of additional actions the General Services Administration is taking to conserve energy. It requires the cooperation and support of all executive departments and establishments in a Government-wide effort to alleviate the present critical shortage of energy resources.

2. *Effective date.* This regulation is effective on or before February 20, 1974.

3. *Expiration date.* This regulation expires June 30, 1974, unless sooner revised or superseded.

4. *Authority and applicability.* Pursuant to a directive from the Federal Energy Office (FEO) in a memorandum dated January 17, 1974, and Federal Management Circular 74-1, the provisions of this regulation apply to the management of space in all buildings owned or leased by executive departments and establishments and may be used as a guide by the legislative and judicial branches of the Federal Government.

5. *Background.* GSA Bulletin FPMR D-101, dated November 27, 1973, identified measures to conserve energy in public buildings during the summer and winter seasons. The President in his statement to the Nation on November 7, 1973, cited actions necessary to alleviate the present serious energy emergency.

While the initial steps taken under GSA Bulletin FPMR D–101 have provided a good start for the buildings and facilities energy conservation program, GSA, as the agency responsible for the efficient implementation of energy conservation measures in federally occupied buildings, will continue to provide leadership and guidance to ensure that these actions and other effective energy conservation practices are instituted.

6. *Agency action.* Heads of executive departments and establishments shall direct their management officials, facility managers, and individual employees to comply with the energy saving guidelines set forth below and others as promulgated by the Administrator of General Services. Actions which should be taken by agency heads under this program include:

a. Assigning a top management official as the agency Energy Conservation Coordinator if not done so previously to oversee and supervise this Government-wide effort as it pertains to the facilities under the agency's control. Federal agencies shall support the efforts of the Energy Conservation Coordinator by naming coordinators at each field facility;

b. Appointing monitors to ensure that individual room conditions are maintained within the prescribed guidelines;

c. Publicizing the use of stringent conservation practices through announcements at staff meetings, special notices posted on bulletin boards, and messages included in facility newsletters; and

d. Ensuring that the conservation measures listed in paragraph 7 are accomplished to realize immediate savings of energy.

7. *Conservation policies and procedures*—a. *Lighting.* Energy consumed for lighting shall be reduced by removing nonessential lamps and fixtures and by applying nonuniform lighting standards to existing lighting systems. During workhours, overhead lighting will be reduced to no more than 50 foot-candles at work stations, 30 foot-candles in work areas, and 10 foot-candles in nonworking areas. Off-hour and exterior lighting except that essential for safety and security purposes (e.g., exit lights, lights in stairwells) shall be eliminated. Preference shall be given to the installation of more efficient lighting systems when constructing or remodeling space as a means of obtaining maximum energy savings.

b. *Cooling.* Energy consumed for cooling Government-owned and -leased space shall be reduced. During the cooling season, the setting on room and zone thermostats shall be held at 80°–82° F during working hours and permitted to go higher during nonworking hours. Necessary adjustments shall be made to cooling system controls so that the temperature in the space shall be maintained within this range without the use of reheat.

c. *Heating.* During the seasonably cold months temperature control devices shall be set to maintain temperatures of 65°–68° F during working hours and shall be turned off or lowered to allow temperatures of 55° F or less during nonworking hours but to avoid freezing conditions. Temperatures in warehouses and similar space shall be adjusted lower than 65°–68° F depending on the type of occupancy and the activity in the space.

d. *Outside air intake.* Outside air intake during heating and cooling seasons shall be reduced to the greatest extent feasible. Under most conditions, a 10 percent outside air intake will be adequate for general office space. Under certain outside air temperature and humidity conditions, the use of up to 100 percent outside air will be the most energy-economical method of operation. Special purpose space such as laboratories shall have the outside air intake reduced to the maximum extent possible consistent with the requirements of the mission.

e. *Interior or core systems.* Interior space in office buildings tends to have a heat buildup generated by lights, people, and equipment and thus does not usually require an added heat source during the heating season. Systems serving this type space usually use recirculated air mixed with some outside air for ventilation purposes. The amount of outside air shall not be increased, nor shall refrigeration be introduced for the sole purpose of lowering a temperature which might otherwise exceed 68° F.

f. *Heater blowers, threshold heaters, and portable space heaters.* The operation of heaters blowers, threshold heaters, and portable space heaters in Government-owned or -leased space is prohibited.

g. *Humidity.* Humidity control on cooling and heating systems shall be eliminated for general office space. Requirements for humidity control in special types of space or locations shall be handled on a case-by-case basis by the official responsible for the operation and maintenance of the facility, with the concurrence of the agency's Energy Conservation Coordinator.

h. *Temperature control.* Heating energy shall not be used to achieve the higher temperatures specified for cooling, and cooling energy shall not be used to achieve the lower temperatures specified for heating.

i. *Nighttime cleaning.* To the extent feasible, nighttime cleaning operations shall be rescheduled to daytime hours to decrease energy usage and to reduce the time buildings are illuminated. Occupant employees shall cooperate with cleaning personnel and turn off lights when they leave for the day and when space is unoccupied.

j. *Exceptions.* Exceptions to the policies prescribed above may be permitted for the accommodation of certain specialized equipment and space (e.g., computers, residential quarters, hospitals, and laboratories). Such exceptions may be granted only after consultation with appropriate technical personnel of the unit requiring the exception and upon presentation by the unit of necessary supporting evidence. Exceptions will be granted by the official responsible for operation and maintenance of the facility and must be concurred in by the agency's Energy Conservation Coordinator. In all instances where exceptions are granted and concurred in by the agency's Energy Conservation Coordinator, he shall develop sufficient documentation detailing the reasons for the action.

8. *Other considerations.* a. Appropriate department and agency contracting officers shall ensure that lessors who provide building services and utilities to Government-leased space are advised that action to comply with the energy conservation policies prescribed in paragraph 7 is required.

b. Where feasible and where it does not interfere with the basic mission, agencies shall schedule overtime work prior to or at the end of normal working days instead of on nonworking days to save the excessive energy consumed as a result of building equipment startup.

9. *Reporting requirements.* a. Each agency shall report as specified in attachment A to the Director, Office of Energy Conservation, Federal Energy Office, Washington, D.C. 20461, its energy consumption in buildings and facilities under its control within 45 calendar days after the end of each quarter.

A copy shall simultaneously be sent to the General Services Administration (PB), Washington, D.C. 20407.

b. This report is in conformance with the provisions of FPMR 101–11.11 and has been assigned Interagency Reports Control Number 0021–GSA–OG–W.

10. *Assistance.* Each agency may request the assistance of GSA in complying with the provisions of this regulation by contacting the General Services Administration (PBOE), Washington, D.C. 20407, telephone number: (202) 962–3541.

11. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (PB), Washington, D.C. 20407, no later than April 1, 1974, for possible incorporation into the permanent regulation.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

FEBRUARY 15, 1974.

CONVERSION FACTORS EMPLOYED

OFFICE OF ENERGY CONSERVATION

| Energy content of fuels: | *Btu* |
|---|---|
| Anthracite coal, short ton | 25,400,000 |
| Bituminous coal, short ton | 24,580,000 |
| Distillate fuel oil (No. 2), per gallon | 138,700 |
| Residual fuel oil, per gallon | 149,700 |
| Natural gas, per cubic foot | 1,031 |
| Liquefied petroleum gas, per gallon (including propane and butane) | 95,500 |
| Electricity, Btu of fuel consumed at power plant per kWh delivered to consumer (assume 10,536 Btu/kWh station heat rate for all stations, 9% line loss as reported for 1971 by Edison Electric Institute) | 11,600 |
| Steam, Btu of fuel consumed at boiler plant per pound of steam delivered to consumer (assume 1,000 Btu per pound of steam generated, 82% boiler efficiency and 12% line loss) | 1,300 |

Date _____ Quarter _____

ENERGY CONSERVATION PERFORMANCE REPORT DEPARTMENT/AGENCY _____

| Building and facilities operations [1] | Use during quarter fiscal year 1973 | Adjusted base [2] | Use during quarter fiscal year 1974 | Percent reduction |
|---|---|---|---|---|
| Electricity: | | | | |
| kWh×10³ | | | | |
| Btu×10⁹ | | | | |
| Fuel oil: | | | | |
| Gal×10³ | | | | |
| Btu×10⁹ | | | | |
| Natural gas: | | | | |
| cuFt³×10³ | | | | |
| Btu×10⁹ | | | | |
| LPG or Propane: | | | | |
| Gal×10³ | | | | |
| Btu×10⁹ | | | | |
| Coal: | | | | |
| Tons | | | | |
| Btu×10⁹ | | | | |
| Other: | | | | |
| Btu×10⁹ | | | | |
| Total Building and Facility Operations: | | | | |
| Btu×10⁹ | | | | |

[1] All conversions are to be made using the conversion factors on page 1.
[2] Actual fiscal year 1973 use adjusted for program changes.

[FR Doc. 74-4159 Filed 2-19-74;10:48 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for History and Philosophy of Science to be held at 12 Noon on March 8 and 9:30 a.m. on March 9, 1974, in Room 517 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552 (b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10 (d) of Pub. L. 92-463.

For further information concerning this Panel, contact Mr. Ronald J. Overmann, Assistant Program Director, History and Philosophy of Science Program, Room 205, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

FEBRUARY 8, 1974.

[FR Doc.74-4004 Filed 2-19-74;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### ARBOREAL ASSOCIATES, INC.

#### Notice of Suspension of Trading

FEBRUARY 11, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Arboreal Associates, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1:00 p.m. (e.d.t.) February 11, 1974, through February 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-3974 Filed 2-19-74;8:45 am]

### COLUMBIA GAS SYSTEM, INC.

#### Proposed Amendments to Certificate of Incorporation; Solicitation of Proxies

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed a declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 12(c) of the Act and rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to said declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia's Certificate of Incorporation ("Certificate") presently authorizes 39,500,000 shares of common stock, par value $10 per share, of which 32,430,612 shares are issued and outstanding, and 500,000 shares of preferred stock, par value $50 per share, of which none are outstanding. Columbia now proposes to amend its Certificate to increase the number of authorized shares of common stock to 60,000,000, and the number of authorized shares of preferred stock to 10,000,000.

All external financing for the Columbia System is done at the parent company level, i.e., through the issue and sale of securities of Columbia. The consolidated capitalization as of November 30, 1973, consisted solely of Columbia's debentures, other unsecured debt, and common equity, as shown below.

| | Thousands | Percent |
|---|---|---|
| Long-term Debt: [1] | | |
| Debentures | $1,121,083 | 54.6 |
| Term bank loan | 50,000 | 2.4 |
| Miscellaneous | 8,707 | .4 |
| Total | 1,180,090 | 57.4 |
| Common equity | 874,336 | 42.6 |
| Total capitalization | 2,055,248 | 100.0 |

[1] Including current maturities.

The long-term debt shown above is exclusive of $60 million of subordinated bank notes issued pursuant to the Credit Agreement as of August 3, 1971, with a group of banks. According to present estimates, an additional $140 million of notes will be issued under said Credit Agreement during the 3-year period 1974-76. The proceeds have been, and will be, used to make advance payments to BP Oil Corporation under an agreement for the development of oil and gas leases at Prudhoe Bay, Alaska, in connection with Columbia's program of procuring additional gas supplies. The total $200 million advances, with interest, are to be repaid through the sale of crude oil; and the bank loans are to be liquidated as the advances are repaid (Holding Company Act Release No. 17213, August 2, 1971).

Columbia's outstanding debentures were issued under indentures dated June 1, 1950, and June 1, 1961, as supplemented from time to time. The various series of debentures mature in 25 years from the dates of issuance thereof; issuance of additional debentures is subject to certain limitations imposed by the indentures; and each series is subject to a substantial mandatory cash sinking fund. The term-bank-loan, shown above, was incurred for certain capital expenditures and is repayable over a period of 10 years (see Holding Company Act Release No. 18146, October 31, 1973).

Although its Certificate has since 1950 provided for the presently authorized 500,000 shares of preferred stock, Columbia states that none has heretofore been issued and sold because of the System's ability to finance its expansion programs with the type of securities noted above, plus internally generated cash. Columbia now considers, however, that with its expanding capital requirements, the use of preferred stock is desirable as an additional financing medium, and states that the use of that medium (i) will permit it to supplement funds derived from traditional sources, (ii) will assist it in maintaining appropriate coverage of interest charges currently made difficult by continuing high interest rates, (iii) will ease the burden which would otherwise be placed on its common stock, and earnings per share thereon, if the necessity for greater equity financing were to be met solely from that source, and (iv)

will help to support its current debenture rating.

The presently proposed Certificate amendment to increase the number of authorized common and preferred shares is designed to provide adequate scope for future financings through those media. Any actual issuance and sale of preferred stock, or of additional common stock, will be the subject of future filings under the applicable provisions of the Act.

So as to conform to existing provisions governing its preferred stock with the standards prescribed by the Commission's Statement of Policy for Preferred Stock promulgated under the Act in 1956 and 1970 (Holding Company Act Release Nos. 13106 and 16758), Columbia further proposes to amend its Certificate in respect of those provisions. Apart from one necessary deviation, the proposed amendments to the preferred stock provisions will result in substantial compliance with said Statement of Policy. The deviation, which concerns limitations on the incurrence of unsecured debt, is considered necessary in light of the fact, as noted above, that Columbia's debt financing is entirely in the form of unsecured obligations. Accordingly, the proposed provision limiting unsecured indebtedness will contain the standard restriction, namely, that without the consent of the holders of a majority of outstanding preferred stock, Columbia will not incur unsecured indebtedness if immediately thereafter (i) consolidated unsecured debt would exceed 20 percent of the sum of existing consolidated secured debt, capital stock, premiums thereon, and surplus, or (ii) unsecured debt with a maturity of less than 10 years would exceed 10 percent of such sum: *Provided, however,* That the term "unsecured debt" shall not be deemed to include (a) all debentures presently outstanding or hereafter issued, (b) all self-liquidating loans for inventory gas specifically approved from time to time under the Act, and (c) the above described $50 million term bank loan and an aggregate of up to $200 million subordinated bank notes issuable under the Credit Agreement of August 3, 1971: *And further provided,* That the term "secured debt" shall be deemed to include the debentures referred to in item (a) above, and any other debt which is, by its terms, secured debt.

The proposed amendments to Columbia's Certificate will require the approval of the holders of a majority of Columbia's outstanding common stock, and Columbia proposes to seek such approval through the solicitation of proxies to be voted at its next annual meeting of stockholders to be held April 18, 1974.

The fees, expenses, and commissions incurred or to be incurred in connection with proposed transactions will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 4, 1974, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-3976 Filed 2-19-74;8:45 am]

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[File No. 24NY-7187]

## LOCATING DEVICES, INC.

### Order Temporarily Suspending Exemption, Statement of Reasons, and Notice of Opportunity for Hearing

I

FEBRUARY 5, 1974.

Locating Devices, Inc. ("Locating"), is a New York corporation located at 95 Marcus Boulevard, Hauppague, New York. It was organized on November 28, 1967, and was to engage in the business of manufacturing and selling of devices to provide fire houses with information concerning conflagrations, as well as designing, selling, leasing, installing and servicing of security devices for residential and industrial application.

On August 19, 1970, it filed a notification pursuant to Regulation A in connection with a proposed offering of 300,000 shares of its $0.01 par value common stock at $1.00 per share. The offering was to be conducted by Josephson Company as underwriter on a "best efforts all-or-none" basis. After several amendments to the notification, the terms of the proposed offering were changed to 150,000 shares at $3.00 per share. In addition, Paul Forchheimer was substituted as underwriter, and was to conduct the offering on a "best efforts 50,000 shares or none" basis. The offering commenced on April 13, 1971.

On June 8, 1971, Locating filed an amendment (after Paul Forchheimer, the original underwriter, had returned all funds received from subscribers), changing the offering to 55,000 units (consisting of 55,000 shares of its $0.01 par value common stock and warrants to purchase an additional 55,000 shares of common stock) at $3.00 per unit. The offering was to be conducted by Executive Park Securities as underwriter in place of Paul Forchheimer, on a "best efforts all-or-one" basis. The offering re-commenced on June 28, 1971, and was completed on July 30, 1971, with the sale of all 55,000 units being offered.

II

The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The offering circular filed by Locating contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in the following respects:

1. The offering circular states that no material change in the financial condition of the issuer occurred from the date of the financial statements when, in fact, the issuer sustained a substantial loss not reflected in the offering circular.

2. The offering circular omits to state that a portion of the net proceeds from the offering would be utilized to repay a loan to Paul Forchheimer, a former underwriter.

3. The offering circular omits to state that a material portion of the net proceeds from the offering would be utilized in payment of accounts payable.

B. The offering was made in violation of section 17(a) of the Securities Act of 1933, as amended.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

*It is ordered,* Pursuant to rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended;

*It is further ordered,* Pursuant to rule 7 of the Commission's rule of practice, that the issuer file an answer to the allegations contained in this order within thirty days of the entry thereof;

*Notice is hereby given* That any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If

no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-3975 Filed 2-19-74;8:45 am]

## PARK FUND, INC.

### Notice of Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that The Park Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Delaware corporation on October 18, 1963, and registered under the Act by filing a Form N-8A Notification of Registration on June 15, 1964.

Applicant represents that pursuant to a Plan of Complete Liquidation and Distribution (the "Plan") adopted by its shareholders at a special meeting on March 5, 1973, it has liquidated and distributed to stockholders in redemption and cancellation of their shares all of its assets except those in a specially created Liquidation and Dissolution Reserve Fund ("Reserve Fund"), and those remaining to be distributed to shareholders not yet located. As of February 1, 1974, Applicant had only two shareholders remaining. The Plan provides that any assets remaining in the Reserve Fund after the payment of all expenses of liquidation and dissolution will be distributed pro rata to shareholders who have redeemed pursuant to the Plan. Following receipt of an Order of the Commission declaring that Applicant has ceased to be an investment company, Applicant will cause to be filed with the Secretary of State of the State of Delaware a Certificate of Dissolution terminating the existence of Applicant.

Applicant further represents that: (1) It is not in the business of issuing nor does it intend to issue or offer for sale, any security of which it is the issuer; (2) it is not engaged in, nor does it propose to engage in, any business of investing, reinvesting, owning, holding, or trading in securities; (3) it does not own, nor does it propose to acquire, any investment securities; and (4) subject to final settlement of its affairs pursuant to the General Corporate Law of Delaware, the Applicant intends that its existence shall forever be dissolved, expired and terminated.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 7, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following March 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-3977 Filed 2-19-74;8:45 am]

## PETROLEUM INVESTMENT CAPITAL CORP.

### Notice of Proposal To Terminate Registration

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Petroleum Investment Capital Corporation ("Petroleum"), registered under the Act as a closed-end investment company and a licensee under the Small Business Investment Act of 1958, has ceased to be an investment company as defined in the Act.

Petroleum was organized under the laws of the State of Colorado on May 22, 1963. It filed its Notification of Registration on Form N-8A and its Registration Statement on Form N-5 under the Act only, on March 26, 1964. It made no filing pursuant to the Securities Act of 1933.

The Commission's records show that Petroleum raised capital through the issuance and sale of common stock and borrowings from the Small Business Administration ("SBA"). As of November 1, 1963, its outstanding common stock was held beneficially and of record by eleven shareholders none of whom were corporations. Outstanding indebtedness to the SBA by the end of 1964 amounted to $300,000. A proposed settlement agreement concerning repayment of such borrowings between the SBA and Petroleum was negotiated in 1969. Petroleum's activities since then have related to its proposed liquidation and dissolution, and it no longer has any stockholders.

Notice is further given that any interested persons may, not later than March 7, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Petroleum at the address stated above. Proof of such service (by affidavit or in case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-3978 Filed 2-19-74;8:45 am]

[Release No. 34-10634; File No. S7-512]

## UNITED STATES SECURITIES MARKETS

### Request for Public Comment on Issues Concerning Foreign Access

*Introduction.* United States and foreign securities firms are presently engaged in active competition for, among other things, the securities business of foreign investors interested in buying and selling securities of United States issuers. Investment by foreign nationals in United States securities has increased significantly during the last decade, rising from net purchases of such securities in 1963 of approximately $932,000 to net purchases of approximately $2.1 billion in 1973,[1] a trend which seems likely

[1] United States Department of the Treasury, Treasury Bulletins for December 1964 and December 1973 at 95 and 121, respectively.

to continue at least in the immediate future. Foreign investor interest in United States securities coupled with the existence of fixed rates of commission in the United States has constituted at least one incentive for foreign entities engaged in a brokerage business (including, in many cases, banks) to seek access to the United States securities markets by means of membership on our national securities exchanges and qualification for the 40 percent professional discount from the fixed commission rate offered by exchange members to nonmember broker-dealers. Without exchange membership or availability of the professional discount, the cost of executing transactions in our exchange markets is higher for foreign securities firms than for most United States broker-dealers. This is not to say that foreign securities professionals may not have other reasons for seeking access to our markets, but the desire to compete for the business of buyers and sellers of United States securities would appear to be the chief reason. The national policy of the United States is to encourage competition in business generally, and the Commission, therefore, looks favorably on increased foreign professional participation in our securities markets. The Commission, however, must be satisfied that such participation is compatible with the public interest and the fair and honest functioning of those markets.

Foreign broker-dealer participation in our securities markets has taken many forms, including registration of foreign entities with the Commission as broker-dealers and membership by such broker-dealers in the National Association of Securities Dealers, Inc. (the "NASD"), ownership of United States registered broker-dealers by foreign persons and, in some cases, acquisition of membership by foreign entities and foreign-owned United States broker-dealers on certain of our national securities exchanges. Such participitation by various foreign entities, governed and influenced by laws and business customs quite different in many cases from those of the United States, poses a number of difficult questions, all subsumed under the term "foreign access". Answers to these questions must be obtained by the Commission before it can ascertain whether, pursuant to the authority vested in the Commission under sections 2, 6, 7, 8, 9, 10, 15, 15A, 17, 19, 23(a) and 30 of the Securities Exchange Act of 1934 (the "Securities Exchange Act"), any changes should be made in its own rules, policies, practices and procedures or those of our national securities exchanges and the NASD with respect to the appropriate terms and conditions for foreign participation, by whatever means, in the United States securities markets. To obtain those answers, the Commission seeks the assistance of the international financial community, interested agencies of the United States government, and members of the public generally on the policy questions posed below.

*Background.* The Commission has not, in the past, formally considered direct or indirect entry by foreign persons into the United States securities industry, whether by membership on a national securities exchange or otherwise, and has left the terms and conditions on which access to our markets should be made available to foreign persons to the national securities exchanges and the NASD as self-regulatory bodies. Qualified foreign broker-dealers as well as United States broker-dealers owned or controlled by foreign interests have registered as broker-dealers with the Commission. There has been, however, a considerable divergence of views as to whether, for example, foreign entities or United States entities controlled by foreigners should be admitted to any form of membership on national securities exchanges or be allowed to participate in benefits offered by those exchanges to certain nonmember broker-dealers, such as the 40 percent professional nonmember discount from the fixed commission rate for agency orders of public customers. Several regional exchanges have adopted comparatively liberal policies concerning the qualification of such entities to receive the 40 percent access discount,[2] including, in some cases, entities engaged in a commercial banking business in their jurisdictions of origin. On the other hand, the New York Stock Exchange and the American Stock Exchange have long standing policies against the admission of foreign entities to stock exchange membership (with a carefully circumscribed exception for Canadian broker-dealers) and have limited the extent to which foreign persons may own or participate in the profits of a member or a nonmember broker-dealer otherwise qualified to receive the 40 percent access discount.[3]

In its "Statement on the Future Structure of the Securities Markets," issued February 2, 1972, the Commission stated:

> In view of the increasing internationalization of securities transactions, it is relevent to a discussion of exchange membership to consider whether brokers conducting a public business but controlled or owned by foreign entities should be permitted to become members of our exchanges. We believe that this question should be resolved in the context of reciprocal access to foreign securities exchanges, with a goal of open access under equivalent competitive conditions for all qualified brokers of all nations.[4]

On January 16, 1973, in Securities Exchange Act Release No. 9950, adopting Rule 19b-2 governing the proper uses of exchange membership, the Commission indicated its awareness of the difficulties that could arise in enforcing the provisions of Rule 19b-2 against foreign or foreign-controlled members of United States securities exchanges. There the following issues were raised concerning business conducted by a foreign-owned exchange member; (i) whether foreign broker-dealers or institutions should be able to obtain membership through subsidiaries on United States securities exchanges under any circumstances; (ii) whether orders placed by the foreign parent with its subsidiary member firm should be deemed categorically to be "affiliated" business merely because such orders are carried, for purposes of convenience or confidentiality, in the parent's name or whether exchanges should "look through" the foreign parent to determine the ultimate origin and nature of such orders; [5] and (iii) if such membership were permitted, whether exchanges would be able to assure themselves that orders designated as "public" securities business executed by the subsidiary member firm for its foreign parent in fact are orders for persons other than the foreign parent or "affiliated persons" thereof. With regard to the second of these questions, we indicated that we were inclined to interpret Rule 19b-2 to classify business by a foreign parent for unaffiliated customers as "public" business, but only if the exchange to which such an order is transmitted can satisfy itself and the Commission that such business actually is executed for a person other than an "affiliated person".[6] We stated that "a self-serving document", such as a certification of the nature of the business done by both the subsidiary member firm and its foreign parent, by itself, would not appear to be adequate for this purpose. We did suggest, however, that an acceptable procedure might be for an exchange to obtain

> * * * a limited waiver of any applicable secrecy laws or other confidential relationship for the purpose of permitting limited audits or inspections of the parent's records by representatives of the exchange in question, or, possibly, a responsible, disinterested third party such as a public accounting firm or a regulatory body of the foreign parent's domicile.[7]

Finally, we stated that any exchange desiring to permit a member to execute brokerage transactions for a foreign affiliate on the basis that those transactions were "public" in nature "must bear the burden of satisfying the Commission that all foreign-related inspection programs are realistically designed and are being actively enforced".[8] Other possibly

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[2] See, e.g., Boston Stock Exchange Constitution, Article XI, section 1, CCH BSE Guide, Paragraph 1251; Boston Stock Exchange Rules, Chapter XXXI, CCH BSE Guide, Paragraph 2290; Midwest Stock Exchange, Article 1, Rule 1, CCH MSE Guide, Paragraph 2021; Midwest Stock Exchange Rules, Article XXVIII, Rule 2, CCH MSE Guide, Paragraph 2552; PBW Stock Exchange By-Laws, Article XII, sections 12-1, 12-2, 13-1, 13-2, CCH PBW Guide, Paragraphs 1276, 1277, 1301, 1302; PBW Stock Exchange By-Laws, section 19-2, CCH PBW Guide, Paragraph 1452; Pacific Stock Exchange Constitution, Article VI, Sec. 1, CCH PSE Guide, Paragraph 1401, Pacific Stock Exchange Rule IV, CCH PSE Guide, Paragraph 3932.

[3] New York Stock Exchange Constitution, Article XV, section 2(h) and rules 318 and 385; CCH NYSE Guide, Vol. 2, Paragraphs 1702, 2318 and 2385; American Stock Exchange Constitution, Articles IV and VI and Rule 319, CCH ASE Guide, Vol. 2, Paragraphs 9032, 9048 and 9373.

[4] Statement on the Future Structure of the Securities Markets, February 2, 1973, at 24.

[5] Securities Exchange Act Release No. 9950 at 162-165 (January 16, 1973).

[6] Id. at 164-165.

[7] Id.

[8] Id.

greater problems are posed by direct membership on a securities exchange by, and availability of the nonmember commission rate discount to, a broker-dealer organized under the laws of a foreign jurisdiction.

While a number of the questions set forth below for public comment are directly subject to our jurisdiction, we recognize that our inquiry may have ramifications extending beyond that jurisdiction.

*Issues to be addressed.* At the present time, the Commission is of the opinion that our securities markets will be best served if the broadest possible broker-dealer participation in those markets is encouraged. If foreign entities are willing to subject themselves fully to the regulatory requirements of our federal securities laws and such additional regulatory strictures as may be necessary to permit adequate surveillance of their activities (by the Commission upon exercise of its investigatory powers and otherwise) to ensure compliance with those laws and the rules and regulations of the Commission and the self-regulatory organizations, foreign broker-dealers can perform a valuable service to our securities markets by providing new capital to the United States securities industry and by promoting participation in our markets by an ever-widening class of foreign investors. The Commission recognizes, however, that an "open-door" policy with respect to foreign professional participation in our securities markets presents unique and difficult problems for the Commission and the self-regulatory bodies; the Commission must be assured that these problems are capable of solution before implementing such a policy. In view of the foregoing, the Commission requests comment on the following questions: [9]

1. For what reasons do foreign persons, directly or indirectly, seek foreign membership on or foreign access to United States exchanges? Is there anything unique about the kind of business conducted by foreign broker-dealers or United States broker-dealers affiliated with foreign nationals, in the United States or elsewhere, or about the manner in which such business is conducted which the Commission should consider in formulating policy on foreign membership and foreign access?

2. Should any exchange be permitted to allow foreign membership on or foreign access to its facilities, and, if so, upon what specific terms and conditions? Should the Commission require exchanges to adopt uniform rules on foreign membership or foreign access? If not, should general parameters be established by the Commission within which exchanges could formulate independent policies and rules governing foreign membership and foreign access, and, if so, what parameters? What would be the impact on our capital markets (particularly in terms of the liquidity of those markets) in the event foreign-broker dealers and United States broker-dealers affiliated with foreign nationals are given greater access to our exchanges? Would United States issuers of securities benefit from such greater access? What effect would such greater access have on the capacity of our domestic markets to attract foreign investment dollars?

3. In light of the purposes and provisions of the Securities Exchange Act, general competitive policies embodied in federal laws, relevant treaties and due process requirements under the Constitution, does the origin of foreign broker-dealers or foreign ownership or control of United States broker-dealers, by itself or in combination with other factors, afford a valid basis for according different regulatory treatment to such broker-dealers (by limitation of their activities, the imposition of regulatory burdens uniquely applicable to the "class" of broker-deals to which they belong or otherwise) for purposes of foreign membership or foreign access?

4. In light of the Commission's authority under the Securities Exchange Act, what conditions, limitations, or special procedures ought to be applicable to foreign broker-dealers or United States broker-dealers affiliated with foreign nationals registered under Section 15 of the Act? Should or must such entities be permitted to join the NASD, and, if so, upon what special terms and conditions, if any?

5. To what extent and in what manner, if at all, should rules formulated by the Commission or exchanges to govern foreign membership and foreign access take into account differences between United States and foreign accounting methods and practices and between United States and foreign business practices and customs generally?

6. Since in many foreign countries banks perform broker-dealer functions (and, in some cases, may be the only entities legally permitted to do so), is there any reason in United States law or policy (particularly in light of applicable treaties between the United States and other countries, general competitive policies embodied in Federal laws, and the national policy embodied in the National Banking Act of 1933 (the "Glass-Steagall Act")) for specially limiting or prohibiting foreign membership or foreign access by (a) foreign broker-dealers which are banks or which are owned or controlled by or otherwise affiliated with foreign banks, or (b) United States broker-dealers owned or controlled by or otherwise affiliated with foreign banks? If not, should the Commission concern itself with the possible circumvention of the provisions of the Glass-Steagall Act by United States banks through ownership or control of, or other interests in, foreign banks which are permitted to achieve foreign membership or foreign access? For purposes of foreign membership or foreign access, should any distinction be made between foreign banks which, directly or indirectly, are engaged in commercial or other banking activities in the United States (by branch or otherwise) and those which are not? Would United States banks or broker-dealers be disadvantaged competitively (a) in the United States if foreign banks are permitted to achieve, directly or indirectly, foreign membership or foreign access, or (b) abroad (because of retaliatory measures or otherwise) if foreign banks are prevented from achieving foreign membership or foreign access?

7. What particular regulatory problems can be expected to arise for self-regulatory bodies and United States public investors in light of foreign laws (particularly "secrecy" laws) and practices if foreign membership and foreign access are permitted to continue or expand? To what extent have such problems been experienced in the past? Are these problems capable of resolution, and, if so, how? Particularly, how can foreign persons affiliated with United States or foreign broker-dealers which are permitted to achieve membership on or access to exchanges be subjected to adequate inspection and other regulatory supervision? Should special disclosures be required of such foreign broker-dealers and foreign affiliates of United States broker-dealers affiliated with foreign nationals, and, if so, in what manner? Can foreign courts, and is it likely that foreign courts will, enforce United States securities laws, or United States judgments based on violations of those laws, against such foreign persons? Who should bear the additional regulatory costs of surveillance of such foreign persons and of enforcement against them of United States securities laws? In what manner could such foreign persons, as a class or otherwise, be required to pay for such additional regulatory costs (e.g., by fee or special charge)?

8. With regard to the "public business" test set forth in Securities Exchange Act Rule 19b-2, what regulatory problems are presented by foreign broker-dealers and United States broker-dealers affiliated with foreign nationals for purposes of foreign membership and foreign access? How do these problems differ significantly from those presented by United States broker-dealers where foreign ownership or control is not involved? If such problems exist, how can they be resolved? Particularly, is it feasible to "look through" a foreign affiliate of a foreign broker-dealer or of a United States broker-dealer affiliated with foreign nation-

[9] As used herein, the term "foreign membership" refers to membership on a United States securities exchange by an entity organized under the laws of a foreign country which is authorized to perform the functions of a broker-dealer under the laws of its country of origin (a "foreign broker-dealer") or by a broker-dealer organized under the laws of a state of the United States owned or controlled by or otherwise affiliated with foreign persons (a "United States broker-dealer affiliated with foreign nationals"); and the term "foreign access" refers to availability of a professional discount from the fixed commission rate (currently 40 percent) to a foreign broker-dealer or to a United States broker-dealer affiliated with foreign nationals for agency orders of public customers executed on an exchange. The term "exchange" means a United States national securities exchange registered with the Commission under Section 6 of the Securities Exchange Act.

als to determine the ultimate origin and nature of orders executed on an exchange before classifying those orders as "public" or "affiliated" business? Is the concept of "affiliated person" enunciated in Securities Exchange Act Release No. 9950 (January 16, 1973), adopting Rule 19b–2, and explained in Securities Exchange Act Release No. 10391 (September 13, 1973), adequate to permit business done by foreign broker-dealers to be fairly characterized either as "public" or "affiliated" in light of the kinds of business relationships which exist and the types of business done in foreign countries?

9. Would any jurisdictional, regulatory and enforcement problems that may be presented by foreign membership and foreign access be diminished if the Commission were to require foreign broker-dealers and United States broker-dealers affiliated with foreign nationals seeking or enjoying membership on or economic access to an exchange to provide that exchange and the Commission periodically, in connection with contractual undertakings to make various disclosures and to subject themselves to the jurisdiction of United States courts, with (a) an opinion of United States counsel as to (i) the identities of "affiliated persons" of such entities and compliance by such entities with exchange rules concerning the utilization of membership and the nonmember access discount, and (ii) the amenability of such entities to service of process within the United States and the ability of United States courts to assert jurisdiction over such entities for the purpose of determining liabilities arising out of violations by such entities of the federal securities laws; and (b) an opinion of counsel licensed or admitted to practice in the relevant foreign jurisdiction as to (i) wether adequate steps have been taken to ensure that foreign "secrecy" laws or contractual obligations regarding confidentiality do not prevent disclosure by such entities of all information necessary to reveal the identities of their "affiliated persons" and of those beneficially interested in transactions to be effected by such entities on an exchange and to permit exercise of the Commission's investigatory powers under section 21 of the Securities Exchange Act, and (ii) the enforceability in such jurisdiction of any judgment based on violations of United States federal securities laws rendered by a United States court of competent jurisdiction? Would such a requirement be appropriate and practical? Would it be satisfactory, from a regulatory point of view, to require instead that exchanges themselves obtain such opinions with respect to different foreign countries and different kinds of foreign entities? Would it be appropriate to deny foreign access and foreign membership if satisfactory opinions of the kind described above could not be obtained? Are there satisfactory means other than opinions of counsel for determining the identities of foreign "affiliated persons" of foreign broker-dealers and United States broker-dealers affiliated with foreign nationals?

10. Is it necessary or desirable for the Congress to grant additional authority to the Commission to enhance its ability to (a) prohibit, condition or limit foreign membership and foreign access or to remove barriers thereto to the extent necessary or appropriate in the public interest or for the protection of investors or to maintain fair, orderly and honest markets, (b) condition or limit registration of foreign broker-dealers or United States broker-dealers affiliated with foreign nationals as broker-dealers under section 15 of the Securities Exchange Act, or (c) prohibit, condition or limit membership by such persons in the NASD?

11. What procedures are employed currently by exchanges permitting foreign membership and foreign access, in fulfillment of their regulatory duties, to effect appropriate surveillance and discipline of foreign broker-dealers and United States broker-dealers affiliated with foreign nationals to ensure compliance by such entities with the Securities Exchange Act, exchange constitutions and the rules and regulations promulgated thereunder, and do these procedures appear to be operating effectively? In the case of foreign access, do exchange obligations to regulate different categories of nonmember broker-dealers (if there are any such obligations) vary depending on whether foreign origin, ownership or control is involved?

12. Will the advent of competitively determined commission rates for all transactions regardless of size in May 1975 significantly reduce or eliminate incentives to foreign membership on exchanges, membership by foreign broker-dealers or United States broker-dealers affiliated with foreign nationals in the NASD, or registration of such persons as broker-dealers under Section 15 of the Securities Exchange Act? Are foreign broker-dealers or United States broker-dealers affiliated with foreign nationals which have acquired exchange memberships likely to retain or dispose of such memberships after elimination of fixed commission rates? Should the Commission defer any changes in its present policy of allowing exchanges to make independent decisions with respect to foreign membership (within certain minimum standards established by the Commission) until fixed commission rates have been eliminated?

13. Should either the Commission, the exchanges or the NASD, in formulating rules governing foreign membership and foreign access, consider whether and the extent to which foreign countries permit United States broker-dealers and foreign broker-dealers affiliated with United States nationals to (a) acquire membership on such countries' securities exchanges, (b) obtain a nonmember professional discount from any fixed rates of commissions required or permitted to be charged by members of such exchanges, or (c) engage in a public securities business in such countries? If so, how are such privileges to be compared with and measured against privileges extended in the United States to foreign broker-dealers and United States broker-dealers affiliated with foreign nationals? If reciprocity is not afforded United States broker-dealers by a particular nation, should foreign broker-dealers organized under the laws of that nation or United States broker-dealers affiliated with foreign nationals of that nation nevertheless be permitted to achieve foreign membership or foreign access? If so, would any otherwise inappropriate restrictions or limitations imposed upon foreign broker-dealers of that nation or against United States broker-dealers owned or controlled by foreign nationals of that nation be appropriate under and within the scope of United States laws in light of the absence of such reciprocity?

14. In the event foreign membership and foreign access are permitted to continue or expand, does the Securities Exchange Act confer sufficient authority on the Commission and the Board of Governors of the Federal Reserve System to enable them to prevent evasion of margin regulations governing securities credit transactions (i.e., Regulations X, G, T and U) by foreign broker-dealers and foreign affiliates of United States broker-dealers affiliated with foreign nationals? Should such regulations apply at all to foreign broker-dealers or foreign affiliates of United States broker-dealers affiliated with foreign nationals and customers of such entities or in some other way than such regulations apply to United States broker-dealers where foreign ownership or control is not involved? If so, what steps should be taken (including the adoption of additional regulations) to modify, if necessary, and to ensure compliance with the intent and purposes of, such regulations? If not, what impact will non-compliance with the margin regulations by such entities have on our securities markets and on competition within those markets?

The Commission requests that written views and data concerning the foregoing policy inquiries, substantiated to the greatest extent possible by appropriate citations to legal and other authorities, data as to the impact on our securities markets of exclusionary policies and, conversely, of policies encouraging participation in our markets, and other statistical data, be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, no later than April 5, 1974. Reference should be made to file number S7–512. Those desiring to submit written comments in response hereto should be advised that such responses need not be limited to the policy questions enumerated above, but may discuss such related issues and other matters relevant to the general area of "foreign access" as may appear appropriate.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

FEBRUARY 8, 1974.

[FR Doc.74–3979 Filed 2–19–74;8:45 am]

## TARIFF COMMISSION

[AA1921-139]

### PICKER STICKS FROM MEXICO

#### Notice of Investigation and Hearing

Having received advice from the Treasury Department on February 6, 1974, that picker sticks from Mexico are being, or are likely to be, sold at less than fair value, the United States Tariff Commission on February 12, 1974, instituted investigation No. AA1921-139 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

*Hearing.* A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets, NW, Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on Tuesday, March 19, 1974. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, March 14, 1974.

Issued: February 13, 1974.

By order of the Commission:

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.74-3937 Filed 2-19-74;8:45 am]

## DEPARTMENT OF LABOR

### Office of the Secretary

### ALL ITEMS CONSUMER PRICE INDEX

#### United States City Average

Pursuant to section 104(a)(4) of the Federal Election Campaign Act of 1971, Pub. L. 92-225, 86 Stat. 3, 47 U.S.C. 803, the Secretary of Labor has certified to the Comptroller General, and publishes in this notice in the FEDERAL REGISTER, the fact that the United States city average of the All Items Consumer Price Index (1967=100) increased 14.4 percent from its 1970 annual average of 116.3 to its 1973 annual average of 133.1.

PETER J. BRENNAN,
*Secretary of Labor.*

[FR Doc.74-3960 Filed 2-19-74;8:45 am]

### Office of the Secretary

### FEDERAL SAFETY ADVISORY COUNCIL

#### Notice of Meeting

Notice is hereby given of a meeting to be held by the Federal Safety Advisory Council established to advise the Secretary of Labor with regard to occupational safety and health programs applicable to Federal employees (Executive Order 11612; 3 CFR, 1971 Comp., p. 195).

The meeting will begin at 9:30 a.m. on February 28, 1974, in Conference Room B in the Departmental Auditorium, Constitution Avenue NW., between 13th and 14th Streets NW., Washington, D.C.

During the course of the meeting the following subjects will be discussed seriatim:

(1) New appointments and reappointments to the Federal Safety Advisory Council;

(2) Election of Vice Chairman;

(3) Federal Energy Conservation—Policies and Procedures; and

(4) Reports on (a) the new Executive order, (b) Federal Safety and Health Regulations—Part 1960, and (c) "Safety '76" Program.

Members of the public are invited to attend the proceedings.

Any written data, views, or arguments received by the Council concerning the subjects to be considered on or before February 22, 1974, together with 25 duplicate copies will be provided to the members and will be included in the minutes of the meeting.

Interested persons wishing to address the Council at the meeting should submit a request to be heard together with 25 copies thereof no later than February 22, 1974, stating the nature of their intended presentation and the amount of time they will need. At the commencement of the meeting the chairman will announce the extent to which time will permit the granting of such requests.

Communications to the Council should be addressed as follows:

Mr. Gerald F. Scannell
Director
Office of Federal Agency Programs
Room 960
1726 M Street NW.
Washington, D.C. 20210

Signed at Washington, D.C., this 14th day of February 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74-4080 Filed 2-19-74;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 449]

### ASSIGNMENT OF HEARINGS

FEBRUARY 14, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

No. 35801 and No. 35808, United States Steel Corporation v. Penn Central Transportation Company, Et Al., has been assigned for hearing on February 20, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119792 Sub-36, Chicago Southern Transportation Co., Inc., is continued to March 26, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7851 Sub 1, Joseph S. Triglia—Revocation of Certificates, now assigned February 27, 1974, is postponed to February 28, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-FC-74065, Riteway Transport, Inc., Phoenix, Arizona, Transferee, and Padre Freight Lines, Long Beach, California, Transferor, and MC-FC-74299, Riteway Transport, Inc., Phoenix, Arizona, Transferee, and Cibola Freight Lines, Phoenix, Arizona, Transferor, now assigned February 25, 1974, at Phoenix, Arizona, is cancelled.

I&S No. 8911, Freight Forwarder Class Rates, Between Florida & Various States, now assigned February 26, 1974, at Washington, D.C., is postponed to March 27, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136948, John L. Cannada, dba Cannada Bus Service, now assigned March 6, 1974, will be held in the Hartford Hilton Hotel, Club Room, 10 Ford Street, Hartford, Conn.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.74-4096 Filed 2-19-74;8:45 am]

[Notice 26]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before Mach 12, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74675. By order of February 11, 1974, the Motor Carrier Board approved the transfer to Ready Bus Line Company, a corporation, La Crescent, Minn., of Certificate No. MC-124167 issued October 23, 1962, to Joe Ready, La Crescent, Minn., authorizing the transportation of passengers between La Crescent, Minn., and La Crosse, Wis. Darby, Brewer & Evavold, Chartered, At-

torneys, 59 On the Plaza West, Winona, Minn. 55987.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-4007 Filed 2-19-74;8:45 am]

[Notice 24]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 12, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, by March 7, 1974. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 263 (Sub-No. 212TA), filed February 4, 1974. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, P.O. Box 4048, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green, 2055 Garrett Way, Pocatello, Idaho 83201. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Big Horn Carpet Mills at Crow Agency, Mont., as an off-route point in connection with carrier's authorized regular route operations, for 180 days.

NOTE.—Applicant states that the requested authority can be tacked with its MC-263 (Sub-No. 74).

SUPPORTING SHIPPER: Mohasco Industries, Inc., 57 Lyon Street, Amsterdam, N.Y. 12010. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 58549 (Sub-No. 19TA), filed February 1, 1974. Applicant: CLINE MUNDY, doing business as GENERAL MOTOR LINES, 1534 Granby Street NE., Roanoke, Va. 24016. Applicant's representative: Jerry D. Beard (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Stuart, Va., and Floyd, Va.: From Stuart, Va., over U.S. Highway 58 to junction of State Route 8 at or near Cruzes Store, Va., thence over State Route 8 to Floyd, Va., and return over the same routes, serving all intermediate points, for 180 days.

NOTE.—Applicant states that the requested authority can be tacked with its MC-58549 (Sub-No. 11) at Stuart and Floyd, Va. to enable a through service by interlining with other carriers at Roanoke and Martinsville, Va.

SUPPORTING SHIPPER: United Elastic Company, Division of J. P. Stevens Co., Inc., Stuart, Va. 24171. SEND PROTESTS TO: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 51146 (Sub-No. 358TA), filed February 4, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil DuJardin (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Mineral wool, mineral wool products, insulating materials, and insulated air duct,* from Kansas City, Kans., to points in Kentucky, Michigan, and Indiana, for 180 days. SUPPORTING SHIPPER: CGS Group, Certain-Teed Products Corporation, Valley Forge, Pa. 19481 (J. V. Rosetti, Assistant Director of Transportation). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street—Room 807, Milwaukee, Wis. 53203.

No. MC 76032 (Sub-No. 305 TA), filed February 1, 1974. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), from Sterling, Colo., to points in Arizona, California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of traffic originating at the plantsite and storage facilities of Sterling Colorado Beef Company, Inc., at Sterling, Colo., for 180 days. SUPPORTING SHIPPER: Sterling Colorado Beef Company, P.O. Box 1728, Sterling, Colo. 80751. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 103884 (Sub-No. 28 TA), filed February 6, 1974. Applicant: ROGERS TRANSFER, INC., Route 46, P.O. Box 175, Great Meadows, N.J. 07838. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foods,* from points in Erie County, N.Y., to New York, N.Y., Pennsylvania, Maryland, and the District of Columbia, for 180 days. SUPPORTING SHIPPERS: Rich Products Corp., Lawrence R. Frye, General Traffic Manager, P.O. Box 245, 1145 Niagara Street, Buffalo, N.Y. 14240; Abels Bagels, Inc., 299 Kehr Street, Buffalo, N.Y.; Freezer Queen Foods, Laddie W. Pratt, Traffic Manager, 975 Fuhrmann Blvd., Buffalo, N.Y. SEND PROTESTS TO: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 111729 (Sub-No. 417 TA), filed February 4, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material related thereto* (excluding motion picture film used primarily for commercial theatre and television exhibition), Between Chamblee, Ga., on the one hand, and, on the other, points in Tennessee in and west of the counties of Dickson, Hickman, Lawrence, Lewis, and Montgomery, for 90 days. SUPPORTING SHIPPER: Eastman Kodak Company, 343 State Street, Rochester, N.Y. 14650. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 124236 (Sub-No. 64TA), filed February 4, 1974. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer* in pneumatic tank vehicles, from Wortham, Tex. to Madill, Okla., for 180 days. SUPPORTING SHIPPER: American Plant Food Corp., P.O. Box 246, Wortham, Tex. 76693. SEND PROTESTS TO: Gerald T. Holland, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 128988 (Sub-No. 41TA), filed January 31, 1974. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by manufacturers or distributors of electric and electronic products and devices, and *equipment, materials, and supplies* used in the manufacture, sale, and distribution thereof, from the facilities of Westinghouse Electric Corporation at or near Mansfield, Ohio, to points in Arizona, California, Nevada, Oregon, and Washington. RESTRICTION: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. SUPPORTING SHIPPER: Westinghouse Electric Corporation, Corporate Transportation, RD #5, Leger Road, Irwin, Pa. 15642. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 42TA), filed January 31, 1974. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated plastic bars, blocks, rods, sheets, and articles*, from the facilities of Westinghouse Electric Corporation at or near Hampton, S.C., to points in Arizona, California, Nevada, Oregon, Washington, and Utah. RESTRICTION: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. SUPPORTING SHIPPER: Westinghouse Electric Corporation, Corporate Transportation, RD #5 Leger Road, Irwin, Pa. 15642. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 43TA), filed January 31, 1974. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by manufacturers or distributors of electric and electronic products and devices, and *equipment, materials, and supplies* used in the manufacture, sale, and distribution thereof, from the facilities of Westinghouse Electric Corporation at or near Greensboro, N.C., to points in Arizona, California, Nevada, Oregon, and Washington. RESTRICTION: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. SUPPORTING SHIPPER: Westinghouse Electric Corporation, Corporate Transportation, RD #5, Leger Road, Irwin, Pa. 15642. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133330 (Sub-No. 5 TA), filed February 4, 1974. Applicant: HALVOR LINES, INC., 510 Lonsdale Building, Duluth, Minn. 55802. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles, sportswear, trailers, and parts, supplies, accessories, and advertising and promotional materals for snowmobiles, and trailers* from Duluth, Minn., to Michigan, Indiana, Ohio, West Virginia, Kentucky, and Tennessee, under contract with Bombardier Corporation, for 180 days. SUPPORTING SHIPPER: Bombardier Corporation, 325 Lake Avenue South, Duluth, Minn. SEND PROTESTS TO: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 133478 (Sub-No. 10TA) (Amendment), filed January 14, 1974, published in the FEDERAL REGISTER issue of January 29, 1974, and republished as amended this issue. Applicant: HEARIN TRANSPORTATION, INC., 8565 Southwest Beaverton, Hillsdale Hiway, Portland, Oreg. 97225. Applicant's representative: Nick I. Goyak, 404 Oregon National Bldg., 610 Southwest Alder Street, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Plastic and wood moldings, doors and door jams*, from the plantsite of DG Shelter Products Co. at Marion, Va., to points in Minnesota, Nebraska, Iowa, Wisconsin, Kansas, Oklahoma, Texas, Illinois, Missouri, Ohio, Arkansas, Louisiana, Michigan, Indiana, Kentucky, Tennessee, Mississipi, Alabama, Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Delaware, West Virginia, Virginia, Maryland, North Carolina, South Carolina, Georgia, and Florida, and (B) *paint, fiberboard, cardboard cartons, plastic granuals or powder, mill machinery and materials* used in connection with the manufacturing of wood products, from Greensboro, N.C.; Asheboro, N.C.; Houston, Tex.; Louisville, Ky.; Niagara Falls, N.Y.; Broken Bow, Okla.; and Chicago, Ill., to the plantsite of DG Shelter Products Co. at Marion, Va., for 180 days. SUPPORTING SHIPPER: D. G. Shelter Products Co., One Maritime Plaza, San Francisco, Calif. 94111. SEND PROTESTS TO: District Supervisor, W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Court House, 520 Southwest Morrison, Portland, Oreg. 97204.

NOTE.—The purpose of this republication is to indicate the amended commodity description in (A) above.

No. MC 136640 (Sub-No. 8TA), filed January 31, 1974. Applicant: ROBERT L. ALLEN, doing business as R. ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen onion rings made from diced fresh onions*, when moving in mixed shipments with agricultural commodities otherwise exempt from economic regulations under section 203(b)(6) of the Act, from Boston, Mass., to points in Milford, Del.; Miami, Fla.; Atlanta, Macon, and Albany, Ga.; Chicago, Ill.; Indianapolis, Evansville, Jeffersonville, and Seymour, Ind.; Paducah, Louisville, Owensboro, and Bowling Green, Ky.; Baton Rouge, Alexandria, and Lafayette, La.; Silver Spring, Frederick, Newington, and Hagerstown, Md.; Detroit, Flint, Warren, Ferndale, and Grand Rapids, Mich.; Jackson, Miss.; St. Joseph, Springfield, Joplin, Princeton, Kansas City, and Columbia, Mo.; Woodbridge, Jersey City, and Paterson, N.J.; Liverpool, Elmira, Rochester, Buffalo, Jamestown, Yorkville, Utica, Brooklyn, Albany, Schenectady, Jamaica, Great Neck, N.Y.; Rount Mount, Charlotte, Raleigh, Winston-Salem, Washington, Hickory, and Ahoskie, N.C.; Philadelphia, York, Pittsburgh, and Spring House, Pa.; Cincinnati, Cleveland, and Bellefontaine, Ohio; and Walterboro and Dillon, S.C.; Nashville and Gallatin, Tenn.; Lubbock, Victoria, Corpus Christie, Sulphur Springs, Lufkin, Galveston, Burnet, San Antonio, and Austin, Tex.; Richmond, Rich Creek, Bristol, Tazewell, Bedford, Harrisburg, Kenbridge, and Lexington, Va.; and Charleston, Beckley, Parkersburg, W. Va., for 180 days. SUPPORTING SHIPPER: William M. Trilling, President, Boston Bonnie, Inc., Trilling Way, Boston, Mass. 02210. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 136640 (Sub-No. 9 TA), filed February 1, 1974. Applicant: ROBERT L.

ALLEN, doing business as R. ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, including sweet potatoes, eggplant sticks, corn and apple fritters, and onion rings, when moving in mixed shipments with agricultural commodities otherwise exempt from economic regulations under section 203 (b) (6) of the Act, from Philadelphia, Pa., to all points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Joseph Angiolillo, Manager of Distribution, Mrs. Paul's Kitchens, Inc., 5830 Henry Avenue, Philadelphia, Pa. 19128. SEND PROTESTS TO: Wiley C. Hersman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138505 (Sub-No. 3 TA), filed February 1, 1974. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 710 North Post Oak, Suite 100, Houston, Tex. 77024. Applicant's representative: Theodore K. High, 2208 Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated and unpackaged furniture and related merchandise* when moving in mixed shipments with uncrated and unpackaged furniture, when moving from retail stores and their branches and warehouses of H. & S. Pogue Company in Hamilton County, Ohio, on the one hand, and, on the other, points in Franklin, Dearborn, Ripley, Ohio, and Switzerland County, Ind., and Campbell, Kenton, Boone, Braken, Pendleton, Grant, Gallatin, and Owen Counties, Ky., for 180 days. SUPPORTING SHIPPER: H. & S. Pogue Company, 4th at Race Streets, Cincinnati, Ohio. SEND PROTESTS TO: District Supervisor John Mensing, 515 Rusk Avenue, 8610 Federal Building, Houston, Tex. 77002.

No. MC 138825 (Sub-No. 2TA), filed February 4, 1974. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY OF INDIANA, INC., 316 S. 13th Sreet, Decatur, Ind. 46733. Applicant's representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes and recreational vehicles*, (1) between points in Adams and Elkhart Counties, Ind., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) between McKinney, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (3) between Carbondale, Pa., on the one hand, and, on the other, points in Pennsylvania, Virginia, North Carolina, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, New York, Connecticut, District of Columbia, New Jersey, Delaware, Maryland, and West Virginia, for 180 days. SUPPORTING SHIPPER: Tioga Industries of Pennsylvania, Inc., 15 Fleetwood Road, Carbondale, Pa. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Ft. Wayne, Ind. 46802.

No. MC 139472 TA, filed January 29, 1974. Applicant: LEE AND TWEEDY, West Penn and Route 1, Hoopeston, Ill. 60942. Applicant's representative: John White (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, supplies, and materials* as may be used in the selling, manufacturing or distribution of cans between the plantsite of American Can Company at Hoopeston, Ill., and points in Indiana, Iowa, Michigan, and Wisconsin, for 180 days. SUPPORTING SHIPPER: R. H. Lorenz, Director—Transportation, American Can Company, American Lane, Greenwich, Conn. 06830. SEND PROTESTS TO: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 139484 (Sub-No. 1 TA), filed February 1, 1974. Applicant: CLIFTON ROGERS AND RONALD HEMMEN, doing business as ROGERS TRUCK LINE, P.O. Box 97, Webster City, Iowa 50595. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites of Iowa Beef Processors, Inc., at Fort Dodge, and Mason City, Iowa, to points in Connecticut, Maine, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, Nebr. 68731. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 139485 TA, filed February 1, 1974. Applicant: CHARLES E. RICHARDSON, doing business as C. E. RICHARDSON TRANSPORTATION, 935 North Sunflower Avenue, Covina, Calif. 91724. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint additives* from Lakewood, Ohio, to San Jose and Los Angeles, Calif., for 180 days. SUPPORTING SHIPPER: Limbacher Paint & Color Works, Inc., 13000 Athens Avenue, Cleveland, Ohio 44107. SEND PROTESTS TO: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles St., Room 7708, Los Angeles, Calif. 90012.

No. MC 139486 TA, filed February 4, 1974. Applicant: ARLISS R. DAVIES, doing business as DAVIES FARM & BUILDING SUPPLY, P.O. Box 423, Rexburg, Idaho 83440. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal and irrigation pipe*, from Rexburg, Idaho, through Utah on I-15 to Las Vegas, Nev., and from Rexburg, Idaho, to Portland, Oreg., on N-80, for 180 days. SUPPORTING SHIPPERS: Gem State Irrigation, Inc., P.O. Box 351, Rexburg, Idaho 83440; Gordon E. Johnson, Box 325, Sugar City, Idaho. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 550 West Fort St., Box 07, Boise, Idaho 83724.

No. MC 139487 TA, filed January 31, 1974. Applicant: COBO, INC., Route 2, Box 78A, Round Rock, Tex. 78664. Applicant's representative: W. S. Levens (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lightweight aggregate*, in bulk, in specialized dump truck equipment, from the plantsite of Superock, Inc., Streetman, Tex., to points in Louisiana, Oklahoma, and Arkansas, for 180 days. SUPPORTING SHIPPER: Superock, Inc., P.O. Box 8, Streetman, Tex. 75859. SEND PROTESTS TO: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 301 Broadway Building, Room 206, San Antonio, Tex. 78205.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-4008 Filed 2-19-74;8:45 am]

## RAYMOND R. MANION

### Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 FR 8769) "Providing for the appointment of certain persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Office of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (30 FR 8809; 31 FR 930; 31 FR 13405; 32 FR 769; 32 FR 10786; 33 FR 522; 33 FR 10544; 33 FR 20067; 34 FR 11341; 35 FR 131; 35 FR 12175; 36 FR 1235; 36 FR 14359; 37 FR 3480; 37 FR 17100; 38 FR 3649 and 38 FR 27248, for the six months' period ending January 3, 1974.

No changes since report for period ending July 1973.

Dated: February 6, 1974.

R. R. MANION.

[FR Doc.74-3942 Filed 2-19-74;8:45 am]

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[Ex Parte No. 293 (Sub No. 1)]

## NORTHEASTERN RAILROAD INVESTIGATION REVIEW

### Public Hearings

FEBRUARY 15, 1974.

On earlier dates by order of the Commission certain preliminary hearing dates and sites were set; and, certain rules of proceeding were stated;

Now on this date, the final list of hearing sites have been set, and, the final rules of procedure and practice have been established:

*It is therefore ordered,* That

(1) The following dates and hearing sites are set; together with the contact person for receiving a time certain for appearance at the respective hearing:

MONDAY, MARCH 4, 1974

Washington, D.C.—9:30 a.m., Local Time, at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW. Contact: Sharon Brown, c/o Rail Services Planning Office, 1900 L St. NW., Washington, D.C. Phone: 202-254-3900.

Boston, Massachusetts—9:30 a.m. and 7:00 p.m., Local Time, Room 607-A, Minihan Auditorium, Charles F. Hurley Building, Government Center. Contact: Elaine Spencer, c/o I.C.C. Office, 150 Causeway Street, Boston, Mass. 02114. Phone: 617-223-2372.

Detroit, Michigan—9:30 a.m. and 7:00 p.m., Local Time, 13th Floor, City-County Building, Woodward and Jefferson St. Contact: Erma Johnson, c/o I.C.C. Office, 10 Witherell Street, Detroit, Michigan 48226. Phone 313-226-4966.

Pittsburgh, Pennsylvania—9:30 a.m. and 7:00 p.m. Local Time, Court Room No. 2, 8th Floor, U.S. Courthouse, 700 Grant Street. Contact: Mary Walsh, c/o I.C.C. Office, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. Phone: 412-644-2929.

Columbus, Ohio—9:30 a.m. and 7:00 p.m. Local Time, Pick Fort Hayes Hotel, 31 West Spring St., Emerald Room, Columbus, Ohio 43215. Contact: Mary White, c/o I.C.C. Office, 255 Federal Building, 85 Marconi Blvd., Columbus, Ohio 43215. Phone: 614-469-5620.

Charleston, W. Va.—9:30 a.m. and 7:00 p.m. Local Time, Room C-D, Main Lobby 2nd Floor, State Office Building, 1900 Washington Street East. Contact: Margaret Thompson, c/o I.C.C. Office. 3108 Federal Bldg., 500 Quarrier Street, Charleston, W. Va. 25301. Phone: 304-343-6181.

Scranton, Pennsylvania—9:30 a.m. and 7:00 p.m., Local Time, U.S. Naval Reserve Center (Wilkes-Barre/Scranton Airport), Spruce Street, Avoca, Pa. Contact: Mildred McDonough, 309 U.S. Post Office, North Washington Ave. and Linden St., Scranton, Penn. 18503. Phone: 717-344-7111 Ext. 324.

TUESDAY, MARCH 5, 1974

Albany, New York—9:30 a.m. and 7:00 p.m. Local Time, Hearing Room A, Legislative Office Building, State Street, 2nd Floor. Contact: Marjorie Maxwell, c/o I.C.C. Office, 518 New Federal Bldg., Maiden Lane and Broadway, Albany, N.Y. 12207. Phone: 518-472-2273.

MONDAY, MARCH 11, 1974

Baltimore, Maryland—9:30 a.m. and 7:00 p.m., Local Time, Room G-30, Federal Bldg., 31 Hopkins Plaza. Contact: Pat Henley, 814-B Federal Bldg., 31 Hopkins Plaza, Baltimore, Md. 21201. Phone: 301-962-2560.

Chicago, Illinois—9:30 a.m. and 7:00 p.m., Local Time, Room 204-A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street. Contact: Nancy Clawson, c/o I.C.C. Office, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604. Phone: 312-353-6124.

Philadelphia, Pennsylvania—9:30 a.m. and 7:00 p.m., Local Time, U.S. Customs Court Room, 3rd Floor, U.S. Customs House, 2nd and Chestnut Streets. Contact: Winifred Drumheller, c/o I.C.C. Office, 1518 Walnut St., Room 1600, Philadelphia, Pa. 19102. Phone: 215-597-4449.

Indianapolis, Indiana—9:30 a.m. and 7:00 p.m., Local Time, Indiana Convention Center, 100 South Capitol Avenue, Indianapolis, Indiana. Contact: Linda Mitchler, c/o I.C.C. Office, 36 South Pennsylvania St., 8th Floor, Indianapolis, Ind. 46204. Phone: 317-633-7465.

St. Louis, Missouri—9:30 a.m. and 7:00 p.m., Local Time, Moot Court Room, St. Louis University Law School, 3642 Lindell Blvd. Contact: Velma Russey, c/o I.C.C. Office, 210 North 12th Street, Room 1465, St. Louis, Mo. 63101. Phone: 314-622-4103.

Hartford, Connecticut—9:30 a.m. and 7:00 p.m., Local Time, Room 148-149, Conference Room, State Department of Transportation, 24 Wolcott Hill Rd., Wethersfield, Conn. Contact: Diane Seavey, c/o I.C.C. Office, Room 324, U.S. Post Office, 135 High St., Hartford, Conn. 06101. Phone: 203-244-2560.

Green Bay, Wisconsin—9:30 a.m. and 7:00 p.m., Local Time, City Council Chamber, City Hall, 100 North Jefferson Street. Contact: Susan Lebergen, Information Center, University of Wisconsin at Green Bay, Green Bay, Wisconsin 54302. Phone: 414-465-2293.

New York, New York—9:30 a.m. and 7:00 p.m., Local Time, Room 305, Federal Bldg., 26 Federal Plaza. Contact: W. H. Alan Smith, c/o I.C.C. Office, 26 Federal Plaza, Room 1807, New York, New York 10007. Phone: 212-264-1072.

(2) The following uniform rules, procedures, and practices for the hearings are established:

(a) Hearings will continue daily, if necessary, to afford all interested persons an opportunity to present their testimony. An evening session commencing at 7:00 p.m. will be held on the first day scheduled at each city (except Washington, D.C.) for the convenience of persons unable to attend during the day. Additional evening sessions, based on need, may be held at the discretion of the Administrative Law Judge.

(b) All oral presentations will be limited to 10 minutes. Appearance times can only be obtained prior to the hearing by contacting the designated contact person for each city on a first-come, first-served basis. Persons waiting until the hearing commences to seek an opportunity to speak will be given the next available time on a first-come, first-served basis. Any person, whether appearing at the hearing or not, may supply for the record any written materials and exhibits within two weeks after the first day of hearings in that city or until March 28, 1974, whichever is earlier. All written materials for the record must be on 8½ in x 11 in paper and submitted in 10 copies. Materials received after that date cannot be considered in the May 1, 1974, Report of the Rail Services Planning Office.

(c) Persons requesting an appearance time will be asked their name, address, telephone number, for whom they work, are they representing a group, and to indicate whether or not they wish aid from the Office of Public Counsel. If assistance is requested an attorney from the Office of Public Counsel will contact the party prior to the hearing.

(d) There will be an oath administered to each speaker; however, there will be no cross examination or rebuttal testimony. The proceedings are legislative, not judicial, in nature and designed to elicit as many public views as possible on the present and future rail service needs in the region. Only questions from the Administrative Law Judge and the representative of the Office of Public Counsel will be permitted.

(e) The customary rules of the Commission prohibiting smoking, talking and the limitations on press activities during the proceedings will apply.

(f) Written testimony or correspondence relative to any hearing should be mailed, designating the hearing city involved, directly to:

Rail Services Planning Office
1900 L Street NW.
Washington, D.C. 20036

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.74-4109 Filed 2-19-74;8:45 am]

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## FEDERAL ENERGY OFFICE

### REFINERS' BUY/SELL LIST

### Correction of Crude Oil Allocation Notice

The crude oil allocation notice issued by the Federal Energy Office on January 18, 1974 (39 FR 2522) and subsequently corrected on January 28, 1974 (39 FR 3013) and February 1, 1974 (39 FR 4451), is further corrected by deleting from the refiners' buy-sell list set forth in paragraph (2) of the Appendix the last entry which reads as follows:

"Ingot Oil and Refining . . . 0.0000 . . . 0 . . . 2012493."

Issued in Washington, D.C., on February 19, 1974.

JOHN C. SAWHILL,
*Deputy Administrator,*
*Federal Energy Office.*

[FR Doc.74-4197 Filed 2-19-74;12:11 pm]

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### REFINERY YIELD CONTROL PROGRAM

### Notice of Establishment of Adjustment Factor for Kero-Jet Fuels

The Federal Energy Office, pursuant to the provisions of title 10 of the Code of Federal Regulations, § 211.71 the Mandatory Petroleum Allocation Regulations, hereby provides notice of an adjustment factor to be applied to the production of kerosene-base jet fuel, effective immediately. The adjustment

factor as defined in § 211.71(c)(1) is the percentage by which the refiner's base period yield of this product must be multiplied to obtain the adjusted percentage yield of this product.

January 1974 is established as the base period for determining a refiner's base percentage yield. The adjustment factor to be applied to the base percentage yield of kerosene-base jet fuel is 106 percent. This adjustment factor shall be effective for the period February 18, 1974 through April 30, 1974. Therefore, the adjusted pecrentage yield of kerosene-base jet fuel for the period February 15, 1974 through April 30, 1974 is a percentage figure equal to 106 percent of a refiner's percentage yield of that product during January 1974.

Refiners will continue to produce kerosene-base jet fuel to the same specifications which were applicable to their January 1974 output of this product unless different specifications are mutually agreed upon between a refiner and his kerosene-base jet fuel purchaser or purchasers.

Issued in Washington, D.C., February 19, 1974.

JOHN C. SAWHILL,
*Deputy Administrator,*
*Federal Energy Office.*

[FR Doc.74-4196 Filed 2-19-74;12:11 pm]

## CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.**

### 1 CFR

| | Page |
|---|---|
| 305 | 4846 |
| 310 | 4846 |

### 3 CFR

EXECUTIVE ORDERS:

| | |
|---|---|
| July 2, 1910 (revoked in part by PLO 5415) | 6519 |
| Oct. 22, 1912 (revoked in part by PLO 5412) | 6518 |
| May 27, 1913 (revoked in part by PLO 5412) | 6518 |
| 10355 (revoked in part by PLO 5413) | 6518 |

PROCLAMATIONS:

| | |
|---|---|
| May 22, 1908 (revoked in part by PLO 5413) | 6518 |
| May 10, 1916 (revoked in part by PLO 5413) | 6518 |
| 1362 (Revoked in part by PLO 5409) | 5488 |
| 4262 | 4061 |
| 4263 | 4659 |
| 4264 | 4865 |
| 4265 | 4867 |
| 4266 | 5173 |
| 4267 | 5175 |
| 4268 | 5177 |

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

MEMORANDA:

| | |
|---|---|
| Dec. 20, 1973 | 4463 |
| Jan. 21, 1974 | 5179 |
| Jan. 28, 1974 | 5181 |

### 4 CFR

PROPOSED RULES:

| | |
|---|---|
| 10 | 5201 |

### 5 CFR

| | |
|---|---|
| 213 | 4869, 5619 |
| 752 | 4063, 5183, 6515 |
| 930 | 4064 |

PROPOSED RULES:

| | |
|---|---|
| 890 | 5640 |

### 6 CFR

| | |
|---|---|
| Rulings | 4665 |
| 150 | 4064, 4557, 5183, 5117, 5318, 5747, 6528, 6529 |
| 152 | 4065, 4577, 4558, 5317, 5318, 5747, 6528, 6529 |
| 155 | 4869 |

PROPOSED RULES:

| | |
|---|---|
| 150 | 5787 |

### 7 CFR

| | |
|---|---|
| 30 | 5299 |
| 68 | 4749 |
| 240 | 5481 |
| 250 | 5183 |
| 301 | 5481 |
| 401 | 5303 |
| 660 | 4749 |
| 723 | 4558 |
| 724 | 4560, 4563 |
| 726 | 4565 |
| 862 | 4750 |
| 907 | 4465, 4869, 5775 |
| 910 | 4870, 5776 |
| 928 | 5184 |
| 1063 | 6515 |
| 1421 | 4566, 5184 |
| 1424 | 5776 |
| 1427 | 5185 |
| 1475 | 4567 |
| 1800 | 5305, 5307 |
| 1823 | 4870 |

PROPOSED RULES:

| | |
|---|---|
| 26 | 4640 |
| 910 | 4067 |
| 924 | 6535 |
| 927 | 5320 |
| 980 | 4580 |
| 991 | 6118 |
| 1001 | 5642 |
| 1002 | 5642, 6535 |
| 1004 | 5642, 6535 |
| 1011 | 4483 |
| 1013 | 4925 |
| 1015 | 5642 |
| 1033 | 5642 |
| 1036 | 5642 |
| 1040 | 5642 |
| 1049 | 5642 |
| 1421 | 6535 |
| 1464 | 5777 |
| 1701 | 6536 |

### 9 CFR

| | |
|---|---|
| 71 | 4465 |
| 73 | 5186 |
| 76 | 5186, 5620, 5748 |
| 78 | 4465 |
| 91 | 6049 |
| 123 | 5307 |
| 381 | 4568 |
| 381 | 4466 |
| 335 | 4067 |
| 381 | 4568 |

PROPOSED RULES:

| | |
|---|---|
| 201 | 4667 |
| 381 | 4113 |

### 10 CFR

| | |
|---|---|
| 11 | 5620 |
| 50 | 4871, 5773 |
| 115 | 5773 |
| 140 | 5310 |
| 205 | 6530 |
| 210 | 4466, 5311, 6531 |
| 211 | 4450, 4466, 4871, 5775, 6531, 6533 |
| 212 | 4450, 4466, 4784, 5775, 6532, 6533 |
| 584 | 6538 |
| 523 | 5748 |
| 545 | 5750 |
| 563 | 5752 |
| Rulings | 5310, 6111 |

PROPOSED RULES:

| | |
|---|---|
| 2 | 4582 |
| 31 | 4583 |
| 32 | 4583 |
| 50 | 4582 |
| 70 | 4930 |
| 150 | 4930 |
| 211 | 4592 |

### 12 CFR

| | |
|---|---|
| 4 | 5187 |
| 208 | 5482 |
| 339 | 4756, 5748 |
| 522 | 5626 |
| 523 | 5748 |
| 545 | 5750 |
| 563 | 5752 |

PROPOSED RULES:

| | |
|---|---|
| 212 | 6132 |
| 206 | 4487 |
| 545 | 4594, 5199, 5324 |
| 563 | 5200, 5325 |
| 563b | 4594 |

12 CFR—Continued Page

PROPOSED RULES—Continued

571 5325
584 6538
701 6132

13 CFR

101 4468
116 6056
121 5626

14 CFR

39 4074, 4075, 4756, 4757, 5483, 5754, 6056
71 4075, 4570, 5187, 5484, 5627, 6516
73 6059
75 6059
91 6516
97 4075, 5485, 5754
232 4469
241 5756

PROPOSED RULES:

Ch. I 5785
39 4927, 4928, 5639
61 5502
67 5502
71 4485, 4581, 4667, 4928, 5503, 5640, 6122–6124, 6537
73 5503, 6124, 6125
91 6538
121 5502
127 5502
152 5784
183 5502
207 4670
208 4670
212 4670
214 4670
244 4930

15 CFR

377 5311
903 6059
1000 4871

16 CFR

4 4661
13 4469, 4758, 4873–4876
302 4852
1115 6061
1500 4469

PROPOSED RULES:

302 4855
502 4887
1700 5197

17 CFR

230 6069
249 6069

PROPOSED RULES:

240 5204
249 5204
270 5209, 5506
274 5506
275 5209

18 CFR

101 6073, 6094
104 6078, 6097
141 4473, 6082, 6106
154 5312
201 6082, 6100
204 6087, 6103
260 4473, 6092, 6106

18 CFR—Continued Page

PROPOSED RULES:

Ch. I 4671
141 5200
260 5200

19 CFR

1 4876, 5312, 5777
4 4876, 6107
16 6516
19 4876

PROPOSED RULES:

1 4580, 5777
6 5320

20 CFR

405 4661

PROPOSED RULES:

146 4785
404 6536
405 5324
416 4115, 4483, 4785, 5778

21 CFR

1 5627
15 5188
17 5188
19 4076, 4760, 6109
45 5764
51 5760
121 4077, 5313, 5628, 5765
125 5313
130 4078
135b 4475, 4759
135c 4759, 5190
135e 4475
135f 4475
141e 4570
148e 4570

PROPOSED RULES:

51 5777
55 5643
121 5197
128 5197
128c 4113
133 5197
600 4113
610 4113
640 4113

23 CFR

765 4078

24 CFR

0 4089
203 4089
207 4089, 5767
220 4089
300 4661
1914 4090, 4091, 4877–4879, 5767–5770, 6517
1915 4092, 4093, 5496, 6050
1931 4094

PROPOSED RULES:

1272 4484
1276 5723

25 CFR

221 5628

PROPOSED RULES:

33 6117

26 CFR Page

12 4476
301 4476

PROPOSED RULES:

1 4482
301 4482

27 CFR

47 4760

28 CFR

0 4080
19 4736

PROPOSED RULES:

20 5636

29 CFR

96 5900
102 4080
520 4478
570 4478, 4760
1910 6109
1928 4925
1952 4661
1953 5629
1999 6119

PROPOSED RULES:

601 5329
613 5329
657 5329
673 5329
675 5329
678 5329
690 5329
699 5329
720 5329
727 5329
728 5329
729 5329
1928 4536
1953 5328
1999 6119
2201 4674, 5204

30 CFR

PROPOSED RULES:

75 6118
77 6118
260 4108

31 CFR

315 5313
341 4661

32 CFR

872 5485
888d 4477
1466 4571
1472 4571

32A CFR

Ch. VI:
DPS Reg. 1 4478

PROPOSED RULES:

Ch. X 5193, 5639

33 CFR

110 4478, 5314
117 4479, 5314, 6110
177 5488

PROPOSED RULES:

209 6113
401 5794

35 CFR — Page
5 — 4880
PROPOSED RULES:
133 — 4931

38 CFR
3 — 5314
21 — 5315
PROPOSED RULES:
2 — 5211
3 — 4673
17 — 5211
110 — 4484
117 — 4485

39 CFR
122 — 5488
447 — 4081

40 CFR
35 — 5252
52 — 4081, 4082, 4662, 4880, 4882, 4883
87 — 4884
180 — 4663, 5765, 6518
401 — 4532
411 — 6590
412 — 5704
422 — 6580
426 — 4760, 5712
PROPOSED RULES:
52 — 4116, 4485, 5198, 5324, 5503, 5504, 5791, 6126, 6130
120 — 4485
401 — 4487
402 — 4487
405 — 4117
408 — 4708
410 — 4628
411 — 6590
412 — 5709
420 — 6484
422 — 6586
426 — 5720

41 CFR
8-12 — 5315
15-60 — 4670
60-2 — 5630
60-60 — 5630
101-4 — 6110
101-18 — 4663
101-26 — 5765
PROPOSED RULES:
3-1 — 6119
3-4 — 6119
3-16 — 6119

41 CFR—Continued — Page
PROPOSED RULES—Continued
8-2 — 5326
8-7 — 5327
8-18 — 5326
101-17 — 4888
101-18 — 4894
101-19 — 4905
101-20 — 4912
101-21 — 4922
101-22 — 4924
101-23 — 4924
101-24 — 4924

42 CFR
50 — 4730, 5315
57 — 4770, 4775, 4778

43 CFR
421 — 4755
1820 — 5633
PUBLIC LAND ORDERS
924 (revoked in part by PLO 5409) — 5488
5174 (amended by PLO 5411) — 5632
5179 (amended by PLO 5411) — 5632
5180 (amended by PLO 5411) — 5632
5184 (amended by PLO 5411) — 5632
5192 (amended by PLO 5411) — 5632
5193 (amended by PLO 5411) — 5632
5250 (amended by PLO 5411) — 5632
5251 (amended by PLO 5411) — 5632
5255 (amended by PLO 5411) — 5632
5408 — 5316
5409 — 5488
5410 — 5488
5411 — 5632
5412 — 6518
5413 — 6518
5414 — 6519
5415 — 6519
PROPOSED RULES:
3300 — 4105
4112 — 5193
5400 — 5502
5420 — 5502

45 CFR
205 — 4733, 5316
233 — 5316
248 — 5552
249 — 5552
602 — 4664
1207 — 5770

45 CFR—Continued — Page
PROPOSED RULES:
118 — 5321
233 — 4114
234 — 5323
250 — 5324
401 — 5248

47 CFR
0 — 4571, 5912
2 — 5912
73 — 4571, 4574, 4885, 5585, 5774
81 — 5488
83 — 4578, 5488
87 — 5316
PROPOSED RULES:
2 — 4931
17 — 6130
73 — 4117, 4586, 4592, 4670, 4671, 5641
89 — 4931
15-60 — 4760

49 CFR
1 — 4082, 5766
85 — 4083, 5190
555 — 5489
571 — 4087, 4578, 4664, 5190, 5489
573 — 4578
574 — 5190
575 — 4087
1033 — 4087, 4088, 4479, 4579, 4665, 4781, 4783, 5489
1057 — 6519
1085 — 4784
1240 — 5766
1249 — 5766
PROPOSED RULES:
174 — 4668
192 — 6126
230 — 4920
573 — 6125
571 — 4116, 4670, 6538
575 — 4116
1057 — 4488, 4787
1310 — 4787

50 CFR
28 — 4656, 5316, 5634, 6111, 6526, 6528
29 — 5490
33 — 4886, 5317, 5634, 5635, 6527-6528
216 — 5635
240 — 5635
245 — 5491


## FEDERAL REGISTER PAGES AND DATES—FEBRUARY

| *Pages* | *Date* |
|---|---|
| 4055-4455 | Feb. 1 |
| 4457-4549 | 4 |
| 4551-4649 | 5 |
| 4661-4741 | 6 |
| 4743-4857 | 7 |
| 4859-5166 | 8 |
| 5167-5292 | 11 |
| 5293-5471 | 12 |
| 5473-5578 | 13 |
| 5579-5740 | 14 |
| 5741-6041 | 15 |
| 6043-6505 | 19 |
| 6507-6596 | 20 |

federal register

WEDNESDAY, FEBRUARY 20, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 35

PART II


# ENVIRONMENTAL PROTECTION AGENCY

■

# PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

## Effluent Guidelines and Standards

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

## PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

### Effluent Limitation Guidelines

On September 7, 1973 notice was published in the FEDERAL REGISTER (38 FR 24470), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the phosphorus producing, phosphorous consuming and phosphate subcategories of the phosphate manufacturing category of point sources. The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the phosphate manufacturing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 422. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water-Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c) 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regrading cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the phosphate manufacturing category. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the PHOSPHOROUS DERIVED CHEMICALS Segment of the Phosphate Manufacturing Point Source Category" (August 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, The Industrial Phosphate Industry" (August 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

The regulation as promulgated contains some significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) Summary of comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: Mobil Oil Corporation; FMC Corporation; Manufacturing Chemists Association; Stauffer Chemical Company; Hooker Industrial Chemicals; University of Florida, Institute of Food and Agricultural Sciences; Pasaic Valley Sewerage Commissioners; County Sanitation District of Los Angeles County; U.S. Department of Commerce; and Monsanto Industrial Chemicals Company. Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) It was stated by several commenters that a no discharge guideline legally could not be applied until 1985.

EPA has determined that in the case of certain subcategories of the phosphate manufacturing category, either the best practicable control technology currently available or the best available technology economically achievable is the total recirculation of process waste water. In section 101(a)(2) of the Act, Congress established as a national goal the elimination of the discharge of pollutants into navigable waters by 1985. However, Congress also set requirements for technology based standards in sections 301, 304(b) and 306 which require the maximum degree of reduction of pollutant discharges prior to 1985, which is consistent with the technical and economic factors to be taken into account under sections 304(b) and 306 of the Act (notably, standards are to be set for 1977 and 1983 compliance, but no regulations are to be promulgated for 1985). The Agency will require the effluent reduction attainable by the best practicable control technology when establishing regulations under section 304(b) of the Act whether that reduction is to some degree of permitted discharge or down to no discharge.

(2) It was commented that best practicable control technology currently available should be based on a large number of plants if not the entire industry.

The Agency defines best practicable control technology currently available to be the average of the best existing performance by plants of various sizes, ages and unit processes within each industrial category or subcategory. This average is not based upon a broad range of plants within an industrial category or subcategory, but is based upon performance levels achieved by exemplary plants. In those industrial categories where present control and treatment practices are uniformly inadequate, a higher level of control than any currently in place may be required if the technology to achieve such higher level can be practicably applied by July 1, 1977. Thus best practicable control technology currently available may be based on a few, one or no exemplary plants within that industrial category.

(3) Several commenters pointed out that runoff cannot be kept out of treatment ponds in some terrain and that a state of no discharge cannot be met during periods of heavy rainfall.

Treatment ponds can be built or modified to minimize, if not eliminate, intrusion of storm runoff originating outside of the pond retaining walls. Such ponds can also have sufficient free board as to retain rainfall. Those subcategories which employ treatment ponds are water consuming processes which can utilize the captured rainfall. Hence, there should be no need to discharge pond water.

(4) It was mentioned that the recycle of process waste water for food grade calcium phosphates would cause the Food and Drug Administration (FDA) specifications for process water to be violated.

Water is used in the manufacture of food grade calcium phosphates for reasons of transport or homogeneity, but not for purification. Hence the waste water contains the product, but nothing harmful to the product, which is what the FDA specifications are designed to protect.

The problem of segregation of waste waters, water balances, and storm water runoff, however, are sufficiently great that the industry will not be able to achieve total recycle by 1977 and yet meet FDA specifications. A discharge will therefore be allowed after suitable treatment as demonstrated in the Development Document.

(5) It was suggested that a limitation for dissolved solids be dropped for best practicable control technology currently available, since in the concentration range of the constituents involved, technology to achieve the proposed degree of control does not exist.

The limitation proposed was based on the raw waste load and was not intended to force treatment of dissolved solids. The limitation was intended to prohibit additional dissolved solids from being discharged. However, due to variability in the process this limitation may require such treatment. Therefore, the limitation on dissolved solids is replaced by limits on specific dissolved constituents that are considered to be the principal pollutants or characteristics to be controlled.

(6) It was suggested that the limits proposed by the Effluent Standards and Water Quality Information Advisory Committee (ESWQIAC) for the phos-

phorus production subcategory be used.

The ESWQIAC limits include two additional phosphorus plants as exemplary. EPA has since accepted these plants as exhibiting best practicable control technology and has allowed a discharge based upon the data in the Development Document for the treatment capabilities of these plants. Therefore, although the Agency does not agree with the underlying rationale for establishing the ESWQIAC limits, the data in the Development Document does support the specific limits proposed by ESWQIAC.

(7) It was requested that discharges to publicly owned treatment works be allowed.

Pretreatment and discharge of waste waters to publicly owned treatment works from existing sources in the phosphate category are covered in the pretreatment guidelines that are proposed at the time this limitation is promulgated. Comments relating to existing sources should be directed to that regulation. For new sources the Agency considers the process waste water constituents from the phosphorus production and phosphorus consuming subcategories to be incompatible with publicly owned treatment works, and that the treatment technology that has been described in Section VII of the Development Document can achieve no discharge of process waste water pollutants to either navigable waters or to publicly owned treatment works.

The principal process waste water pollutant for the phosphate subcategory is phosphate, which cannot be adequately treated by primary or secondary treatment works. Phosphate, however, is considered to be compatible with publicly owned treatment works designed, constructed and operated to achieve optimal removal of dissolved phosphate, and a discharge to such treatment works will be allowed.

(8) Several commenters considered the capital costs of the model treatment systems to be underestimated and that the economic impact is understated.

The Agency has recalculated, in Section VIII of the Development Document, the cost information on model treatment systems as the result of additional data submitted by industry. The calculated changes do not affect the conclusions of the economic analysis, since the percentage increase in capital cost is not significant.

(9) It was stated that some plants were incorrectly cited as to whether they were achieving no discharge or not.

The necessary qualifiers were added to the descriptions in the Development Document of those plants that were disputed. The changes that were made involved treatment of certain portions of the process waste water and do not substantially affect the overall conclusions of the Development Document.

(10) The general comment was made that zero discharge cannot be achieved for some products.

The Agency has reevaluated the data and is allowing a discharge for phosphorus and food grade calcium phosphates production for the 1977 limitation for the reasons given in comments (4) and (6). The Agency believes the technology exists to substantiate a no discharge of process waste water limitations for the remaining manufacturing processes.

(11) A range of values was recommended rather than a single value for each parameter.

The Agency considers that the limitations already represent ranges, taking into account differences in process, age, size and other factors. Subcategorization has been done to take these factors into account with different limitations for each subcategory. Within subcategories, exceptions to the limitations have been made for certain manufacturing segments or products, constituting a wider range. Each numerical limitation represents a maximum average of daily values over a given period of time. This in effect represents a range from zero up to the specific limitation. A maximum variation is also given for each maximum average limitation. The Agency considers an upper and lower limitation to be somewhat meaningless since the actual range would be from zero to the upper limitation. Thus, in effect, the argument becomes one of making the EPA limitations less severe, since it has been suggested that the EPA limitations should be the lower limits. The EPA limitations are achievable and currently available.

(12) One commenter stated that there is no correlation of contractor validation data with data or conclusions contained in the Development Document.

Data calculated from samples collected by the contractor were not primarily intended to form the basis of a limitation. The validation data was mainly used by the contractor to determine if existing data can be correctly used to establish limitations. Such a correlation does not appear in the Development Document, but the raw data may be reviewed at the EPA Information Center, Room 227, West Tower, Waterside Mall, Washington, D.C. Only the data that appears in the Development Document was used in formulating the effluent limitations.

(13) It was stated that the evaporation of $PCl_3$ and $POCl_3$ process waste waters would require an excessive amount of energy.

The 1983 limitations for the manufacture of $PCl_3$ and $POCl_3$ are no discharge of process waste water pollutants which can be accomplished by maximum waste water recycle and evaporation of the blowdown. The Agency believes that sufficient time exists for each plant to be examined by the industry in order to minimize water usage, maximize solar evaporation and thus minimize power usage.

(14) It was pointed out that percolation can occur from waste water ponds.

Infiltration of pond water to ground water cannot be controlled by this regulation. Possible problems have been pointed out in the preamble to the proposed regulation (38 FR 24470) and methods of correction have been suggested.

(15) The comment was made that no discharge of process waste water pollutants is an impractical limitation because the methods of analysis are not sufficiently sensitive.

Where no discharge of process waste water pollutants is prescribed, model treatment systems are described in the Development Document in which no process waste waters are discharged, hence no process waste waters pollutants. For the purpose of determining if process waste water pollutants have contaminated other allowable discharges, this limitation is considered to be the detectable limit of the appropriate analytical method.

(16) It was suggested that no discharge of process waste water pollutants should mean no discharge that would degrade the quality of the receiving stream.

The Act is quite specific in stating the difference between limitations based on treatment technology and limitations handled on a case by case basis in order to insure that water quality standards are attained. The limitations promulgated in this regulation are technology based and independent of water quality standards, as is the intent of the Act.

(17) It was suggested that concentrations (mg/l) should be used with instantaneous maximum values instead of production based limitations.

Production based limitations such as kg of pollutant per kkg of product insure that dilution is not practiced. Daily maximum values are also promulgated.

(18) One commenter stated that phosphate limitations for the phosphate industry are unduly restrictive when compared to phosphate limitations for publicly owned treatment works.

The Act establishes separate time tables for industrial and municipal sources. Limitations for phosphate discharges from publicly owned treatment works will be proposed at a later date. However, effluent guidelines for industrial sources are to be based on the best practicable, best available, and best demonstrated technologies for each separate category and separate economic considerations for each category.

(19) One company agreed with the proposed limitation for the manufacture of phosphoric acid, phosphorous trichloride and phosphorous oxychloride.

(20) Another company suggested that no discharge of process waste water pollutants for the manufacture of phosphorus, sodium tripolyphosphate and food grade calcium phosphate is the best available technology rather than the best practicable control technology.

The Agency has reviewed the data and agrees that a discharge resulting from the manufacture of phosphorus and food grade calcium phosphate should be allowed for the 1977 limitations for the reasons listed in comments (4) and (6). However no discharge of process waste water pollutants still qualifies as best practicable control technology currently

available for the manufacture of sodium tripolyphosphate.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comments and continuing review and evaluation of the proposed regulation by the EPA, the following changes have been made in the regulation.

(1) Minor adjustments have been made to reflect the fact that an increased number of definitions and analytical methods have been included in 40 CFR 401 and are incorporated by reference in 40 CFR 401 and are incorporated by reference in these subparts.

(2) A discharge will be allowed for the 1977 limitation for the phosphorus production subcategory. This change was made in response to comments (2), (6), (10) and (20) in section (a) above. The limitations are based upon two plants that discharge process waste water from treatment facilities exhibiting exemplary performance.

(3) The total dissolved solids limitations for the manufacture of phosphorus trichloride and phosphorus oxychloride have been replaced with limitations on specific dissolved species. This change was made in response to comment (5) in section (a) above.

(4) A discharge will be allowed for the 1977 limitation for the manufacture of food grade calcium phosphate. The reasons for this change are listed in comments (4), (6) and (20). The limitations are based upon the volume of water used in the process and the technological capability of treating suspended solids and total phosphorus.

(5) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of Section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) Economic impact.

The changes that were made to the proposed regulations for the phosphate category do not substantially affect the initial economic analysis. These changes center about the feasibility of recycling treated process waste water rather than different treatment systems. Additional cost data was received from the phosphate manufacturing industry, and a careful review of the costs of alternate treatment technologies was performed. Appropriate upward changes to the cost estimates were made in Section VIII of the Development Document. These changes likewise do not affect the conclusions of the economic impact study, since the cost increases are minimal.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the phosphorus production subcategory, phosphorus consuming subcategory and the phosphate subcategory of the phosphate manufacturing point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the PHOSPHORUS DERIVED CHEMICALS Manufacturing Segment of the Phosphate Manufacturing Point Source Category" (February 1974). It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines for the INDUSTRIAL PHOSPHATE INDUSTRY" (August 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the phosphate manufacturing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c), a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the PHOSPHORUS DERIVED CHEMICALS Segment of the Phosphate Manufacturing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20401, for a nominal fee.

(f) Final rulemaking.

In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 422, Phosphate Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective April 22, 1974.

Dated: January 31, 1974.

JOHN QUARLES,
*Acting Administrator.*

Subpart A—Phosphorus Production Subcategory

Sec.


422.10 Applicability; description of the phosphorus production subcategory.
422.11 Specialized definitions.
422.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
422.14 Reserved.
422.15 Standards of performance for new sources.
422.16 Pretreatment standards for new sources.


Subpart B—Phosphorus Consuming Subcategory


422.20 Applicability; description of the phosphorus consuming subcategory.
422.21 Specialized definitions.
422.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
422.24 Reserved.
422.25 Standards of performance for new sources.
422.26 Pretreatment standards for new sources.


Subpart C—Phosphate Subcategory


422.30 Applicability; description of the phosphate subcategory.
422.31 Specialized definitions.
422.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
422.34 Reserved.
422.35 Standards of performance for new sources.
422.36 Pretreatment standards for new sources.


## Subpart A—Phosphorus Production Subcategory

### § 422.10 Applicability; description of the phosphorus production subcategory.

The provisions of this subpart are applicable to discharges of pollutants re-

sulting from the production of phosphorus and ferrophosphorus by smelting of phosphate ore.

§ 422.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 422.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| | Metric units (kg/kkg of product) | |
| TSS | 1.0 | 0.5 |
| Total phosphorus | .30 | .15 |
| Fluoride | .10 | .05 |
| Elemental phosphorus | No detectable quantity. | |
| pH | Within the range 6.0 to 9.0. | |
| | English units (lb/1,000 lb of product) | |
| TSS | 1.0 | 0.5 |
| Total phosphorus | .30 | .15 |
| Fluoride | .10 | .05 |
| Elemental phosphorus | No detectable quantity. | |
| pH | Within the range 6.0 to 9.0. | |

§ 422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: there shall be no discharge of process waste water pollutants to navigable waters.

§ 422.14 [Reserved]

§ 422.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters.

§ 422.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the phosphorus production subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 422.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

## Subpart B—Phosphorus Consuming Subcategory

§ 422.20 Applicability; description of the phosphorus consuming subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of phosphoric acid, phosphorus pentoxide, phosphorus pentasulfide, phosphorus trichloride, and phosphorus oxychloride directly from elemental phosphorus. The production of phosphorus trichloride and phosphorus oxychloride creates waste water pollutants not completely amenable to the procedures utilized for best practicable control technology currently available. The standards set for phosphorus trichloride manufacture and phosphorus oxychloride manufacture, accordingly, must differ from the rest of the subcategory at this level of treatment.

§ 422.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 422.22 Effluent limitations guidelines, representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that

facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) There shall be no discharge of process waste water pollutants to navigable waters from the manufacture of phosphoric acid, phosphorus pentoxide, or phosphorus pentasulfide.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from phosphorus trichloride manufacturing on the basis of production:

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| | Metric units (kg/kkg of product) | |
| TSS | 1.4 | 0.7 |
| Total phosphorus | 1.6 | .8 |
| Arsenic | .0001 | .00005 |
| Elemental phosphorus. | No detectable quantity. | |
| pH | Within the range 6.0 to 9.0. | |
| | English units (lb/1,000 lb of product) | |
| TSS | 1.4 | 0.7 |
| Total phosphorus | 1.6 | 0.8 |
| Arsenic | .0001 | .00005 |
| Elemental phosphorus. | No detectable quantity. | |
| pH | Within the range 6.0 to 9.0. | |

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from phosphorus oxychloride manufacturing on the basis of production:

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed— |
|---|---|---|
| | Metric units (kg/kkg of product) | |
| TSS | 0.3 | 0.15 |
| Total phosphorus | .34 | .17 |
| pH | Within the range 6.0 to 9.0. | |
| | English units (lb/1,000 lb of product) | |
| TSS | 0.3 | 0.15 |
| Total phosphorus | .34 | .17 |
| pH | Within the range 6.0 to 9.0. | |

**§ 422.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: there shall be no discharge to navigable waters of process waste water pollutants to resulting from the manufacture of phosphoric acid, phosphorus pentoxide, phosphorus pentasulfide, phosphorus trichloride or phosphorus oxychloride.

**§ 422.24 [Reserved]**

**§ 422.25 Standards of performance for new sources.**

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.26 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the phosphorus consuming subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 422.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

## Subpart C—Phosphate Subcategory

**§ 422.30 Applicability; description of the phosphate subcategory.**

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of sodium tripolyphosphate, animal feed grade, calcium phosphate and human food grade calcium phosphate from phosphoric acid. The production of human food grade calcium phosphate creates waste water pollutants not completely amenable to the procedures utilized for best practicable control technology currently available. The standards set for human food grade calcium phosphates accordingly must differ from the rest of the subcategory at this level of treatment.

**§ 422.31 Specialized definitions.**

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

**§ 422.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharge or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) There shall be no discharge of process waste water pollutants to navigable waters from the manufacture of sodium tripolyphosphate, or animal feed grade calcium phosphate.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged in process waste water from human food grade calcium phosphate manufacturing based on production:

| Effluent characteristic | Effluent limitations: Maximum for any 1 day | Effluent limitations: Average of daily values for 30 consecutive days shall not exceed |
|---|---|---|
| | Metric units (kg/kkg of product) | |
| TSS | 0.12 | 0.06 |
| Total phosphorus | .06 | .03 |
| pH | Within the range 6.0 to 9.0. | |
| | English units (lb/1,000 lb of product | |
| TSS | 0.12 | 0.06 |
| Total phosphorus | .06 | .03 |
| pH | Within the range 6.0 to 9.0. | |

**§ 422.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

The following limitations establish the the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge to navigable waters of process waste water pollutants resulting from the manufacture of sodium tripolyphosphate, animal feed grade calcium phosphate, or human food grade calcium phosphate.

**§ 422.34 [Reserved]**

**§ 422.35 Standards of performance for new sources.**

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.36 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the phosphate subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that process waste waters from this subcategory are not considered to be incompatible with publicly owned treatment works designed, constructed and operated to remove dissolved phosphate and, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 123.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 422.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

[FR Doc.74-3436 Filed 2-19-74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 422 ]

### APPLICATION OF EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES TO PRETREATMENT STANDARDS FOR INCOMPATIBLE POLLUTANTS FOR THE PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

#### Notice of Proposed Rulemaking

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 422—Phosphate Manufacturing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the phosphate production subcategory, the phosphorous consuming subcategory and the phosphate subcategory of the phosphate manufacturing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 422) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "Compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

"In addition to the prohibitions set forth in Section 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to Section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant: *And provided further,* That when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment."

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases. EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 422.15, 422.25 and 422.35 of the proposed regulation for point sources within the phosphorus production subcategory, the phosphorus consuming subcategory and the phosphate subcategory (September 7, 1973; 38 FR 24470), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 422.16, 422.26 and 422.36 which state the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document is now being published. The economic analysis report was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of phosphate, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of phosphate. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been

presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the phosphate category (38 FR 24470; September 7, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 422) which currently is being published in the rules and regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the phosphate manufacturing category, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

The first option, which would leave the introduction of incompatible pollutants unregulated by a national pretreatment standard, is inappropriate in view of the information available to the Agency concerning the effects of those pollutants in the phosphate manufacturing category and the available treatment technologies. In general, the Agency believes that treatment levels required of plants utilizing municipal systems should be comparable to those applicable to direct dischargers so that use of such systems does not result in higher levels of ultimate pollutant discharge to the navigable waters or in any unjustified economic advantage.

For the phosphorus production subcategory the process waste waters contain high concentrations of phosphates and fluorides. In addition harmful constituents such as elemental phosphorus, arsenic and cadmium could be present in these process waste waters which could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. The information available to the Agency does not indicate differences between plants which discharge directly to navigable waters and those which could utilize municipal systems significant enough to warrant varying the effluent limitations guidelines. Accordingly, it is the opinion of the EPA that these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works.

For the phosphorus consuming subcategory the process waste waters will contain the same constituents as those for the phosphorus production subcategory. This will occur because of the presence of these constituents in the raw material elemental phosphorus and the transfer of phossy water from phosphorous producing facilities to phosphorus consuming facilities in conjunction with the shipment of elemental phosphorus. Likewise, these constituents could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. The information available to the Agency does not indicate differences between plants which discharge directly to navigable waters and those which could utilize municipal systems significant enough to warrant varying the effluent limitations guidelines. Accordingly, it is the opinion of the EPA that these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works.

For the phosphate subcategory the process waste waters contain high concentrations of phosphates which could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. The information available to the Agency does not indicate differences between plants which discharge directly to navigable waters and those which could utilize municipal systems significant enough to warrant varying the effluent limitations guidelines except as described below. Accordingly, it is the opinion of the EPA that these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works.

The single exception to this requirement is that process waste waters from the phosphate subcategory may be discharged to publicly owned treatment works that are designed, constructed and operated to achieve optimal removal of dissolved phosphate. Under these conditions the process waste waters from the phosphate subcategory will be amenable to treatment in such publicly owned treatment works and therefore may be discharged to such works without the requirement for pretreatment.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304, and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 426 be amended to add §§ 422.14, 422.24, and 422.34. All comments received on or before March 22, 1974, will be considered.

Dated: January 31, 1974.

JOHN QUARLES,
*Acting Administrator.*

Part 422 is proposed to be amended as follows:

1. Subpart A is amended by adding § 422.14 as follows:

§ 422.14 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 422.12 above shall apply, and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

2. Subpart B is amended by adding § 422.24 as follows:

§ 422.24 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 422.22 above shall apply, and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

3. Subpart C is amended by adding § 422.34 as follows:

§ 422.34 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 422.32 above shall apply, and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly-owned treatment works, except in compliance with such limitations, unless such treatment works are designed, constructed and operated to remove dissolved phosphate.

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PART III


# ENVIRONMENTAL PROTECTION AGENCY

■

## CEMENT MANUFACTURING POINT SOURCE CATEGORY

Effluent Guidelines and Standards

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

## PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

### Effluent Limitations Guidelines

On September 7, 1973, notice was published in the FEDERAL REGISTER (38 FR 24462), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the nonleaching and leaching subcategories of the cement manufacturing category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the cement manufacturing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 411. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the nonleaching subcategory and leaching subcategory. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Cement Manufacturing Point Source Category" (August 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, Cement Industry" (August 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

The regulation as promulgated contains minor but significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) Summary of comments.

The following responded to the request for written comments contained in the preamble to the proposed regulation: Illinois Environmental Protection Agency; Ideal Cement Company; General Portland, Inc.; Portland Cement Association; Lehigh Portland Cement; Martin Marrietta; Department of Commerce—General Counsel; National Gypsum Company—Huron Division; Missouri Portland Cement Company; Mead Corporation and the Department of the Interior.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) The Illinois Environmental Protection Agency inquired about the omission of total dissolved solids limitation for best practicable control technology current available.

The Agency has established limitations which require dissolved solids removal and recycling of waste waters from leaching process streams for best available technology economically achievable. This technology, described in the Development Document, involves the use of electrodialysis of high pH streams to remove salts. Although the technology has been used in the glass industry in Japan, the application of the technology to leaching process streams will require some development by industry and will involve some technical and economic risk but should be achievable by 1983.

(2) Several comments were received relating to the temperature limitation of 3°C and the effect of the thermal discharge on water quality. An analysis of the data received by the Agency and presented in the Development Document shows that almost 50 percent of some 123 plants in the industry, for which definitive thermal data were available, are currently achieving the temperature limitation.

(3) A number of organizations within industry submitted data to support their recommendations that the water to dust ratio used in leaching plants, upon which basis the Agency determined the TSS limitation, should be reexamined. The industry data, together with the previously submitted data and raw data obtained during the field portion of the project, were reexamined and the water to dust ratio and TSS limitations recalculated. The Development Document and the regulation have been changed to reflect a higher dust to water ratio and TSS limitation for the leaching subcategory.

(4) Three of the organizations commented that they felt that the proposed regulations were based on questionable test data and unwarranted assumptions because of the small amount of testing done by the Agency's contractor and because of the use of RAPP data and industry questionnaires.

The Development Document outlines the basis for the guidelines development. The Agency sought and obtained process and waste water data from many sources which included the Portland Cement Association and individual companies operating plants in the cement industry. The data was analyzed and evaluated by the contractor and the Agency. Prior to the field verification test portion of the project, technical representatives from the industry and the Portland Cement Association were consulted and confirmed that the data possessed by the Agency was representative of the industry and reflected the current technology and operating methods of the industry. The validity of the data and assumptions were further confirmed by field testing at selected cement plants representative of the processes used, geographical location, kiln dust control systems used, age, capacity, water and waste water management practices and other factors as outlined in the Development Document. On the basis of the approach and methodology used to develop the guidelines for the cement industry, the Agency believes that the limitations presented in this regulation realistically reflect the best practicable technology currently available or the best available technology economically achievable.

(5) Two comments were made that the "typical plant" model used for costing treatment alternatives was not representative of any one specific plant in the industry.

The Agency did not intend that the "typical plant" represent any specific plants but rather used the "typical plant" cost estimates upon which to determine an estimate of the total industry costs. The "typical plant" cost data represents a basis from which an individual plant can estimate its costs (upward or downward) to adjust for the plant's operating methods and requirements.

(6) The majority of comments from industry recommended that the Agency clarify what constitutes runoff control from materials storage piles.

Although the proposed regulation indicated that complete retention of runoff from kiln dust piles was required, it is the Agency's intention, as stated in the Development Document, that the runoff from coal, kiln dust and other materials storage piles should be either completely contained or treated to neutralize and control suspended solids prior to discharge to navigable waters through the use of the best practicable control technology currently available. The regulation has been changed (Subpart C) to clarify the Agency's intent.

(7) Several comments indicated that the proposed limitations are inconsistent with those used in the NPDES.

The Agency is aware that some inconsistencies exist, and intends in the future to apply the limitations promulgated in this regulation, rather than those currently used in the NPDES.

(8) Two organizations recommended that the Agency consider subcategorization of the industry based on wet and dry processing and on high and low alkali cement manufacturing raw materials. The Agency did consider the factors of wet and dry processing as part of the subcategorization definition process. As the Development Document indicates, the waste water characteristics from wet and dry process plants are similar enough so as to not warrant separate subcategorization. In addition, the raw materials that are available to some plants, especially limestone and clay, may contain higher-than-average amounts of potassium and sodium. These differences will be reflected in the waste water streams only at leaching plants where the kiln dust comes in contact with the waste stream. Plants where such contact is purposeful rather than incidental have already been considered as a separate subcategory. Thus, the type of raw material is considered with respect to its influence on dust handling techniques, and as such is covered in the two selected subcategories.

(9) One company commented that no provisions were made for upset conditions.

The Agency has identified potential upsets in runoff control as a result of excessive rainfall and has provided for discharges from runoff where the rainfall exceeds the capacity of a facility designed to treat the runoff resulting from a 10 year, 24 hour rainfall event.

(10) The Department of the Interior expressed concern over the failure to evaluate the trend toward the use of short, dry process kilns in the industry.

The Agency believes that the trend in the use of short, dry process kilns should have no influence on the characteristics of the raw waste water from cement plants which would affect the subcategorization or limitations established for the industry.

(11) Several commenters inquired about whether the TSS limitation is a net or gross value depending upon the TSS of the intake water sources. The Agency intends for the TSS limitation to be an absolute value.

(b) Revision of the proposed regulation prior to promulgation.

As a result of public comments and continuing review and evaluation of the proposed regulation by the EPA, the following changes have been made in the regulation.

(1) The TSS Effluent Limitations for Subpart B—Leaching Subcategory § 411.22 and § 411.24 have been increased to 0.4 kg/kkg of dust leached (0.4 lb/1000 lb of dust leached). This change results from an evaluation of data submitted by industry and a reexamination of the raw data on leaching plants collected by the Agency's contractor and a recalculation of the dust/water ratio.

(2) Subpart C has been added to the regulation to provide for the discharge to navigable waters of storage pile runoff as an alternative to complete containment. This subpart requires that any storage pile runoff discharged to navigable water must be neutralized to a pH within the range of 6.0 to 9.0 and have a suspended solids concentration of no greater than 50 mg/l. These levels of pH and sedimentation control are readily achievable, even under adverse climatic conditions, through the application of currently available neutralization and sedimentation technology.

(3) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of Section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) Economic impact.

The above listed changes will not significantly affect the conclusions of the economic study of the proposed regulations. The adjustment of the TSS effluent limitations for the leaching subcategory should not affect the cost of the treatment alternatives described in the Development Document and the proposed regulation. The effect of allowing a discharge from materials storage piles runoff as an alternative to total containment should slightly reduce the economic internal costs for existing plants within the industry.

(d) Cost-benefit analysis.

The detrimental effects of the constituents of waste waters now discharged by point sources within the cement manufacturing point source category are discussed in section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Cement Manufacturing Point Source Category" (January 1974). It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines, CEMENT INDUSTRY" (September 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the cement industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of Section 304(c), a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Cement Manufacturing Point Source Category," has been published and is available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(f) Final rulemaking.

In consideration of the foregoing, 40 CFR Chapter I, Subchapter N is hereby amended by adding a new Part 411, Cement Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective April 22, 1974.

Dated: January 31, 1974.

JOHN QUARLES,
*Acting Administrator.*

## PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

### Subpart A—Nonleaching Subcategory

Sec.

411.10 Applicability; description of the nonleaching subcategory.
411.11 Specialized definitions.
411.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.14 Reserved.
411.15 Standards of performance for new sources.
411.16 Pretreatment standards for new sources.

### Subpart B—Leaching Subcategory

Sec.

411.20 Applicability; description of the leaching subcategory.

411.21 Specialized definitions.
411.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
411.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.24 Reserved.
411.25 Standards of performance for new sources.
411.26 Pretreatment standards for new sources.

**Subpart C—Materials Storage Piles Runoff Subcategory**

Sec.
411.30 Applicability; description of the materials storage pile runoff subcategory.
411.31 Specialized definitions.
411.31 Specialized definitions.
411.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
411.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
411.34 Reserved.
411.35 Standards of performance for new sources.
411.36 Pretreatment standards for new sources.

## Subpart A—Nonleaching Subcategory

### § 411.10 Applicability; description of the nonleaching subcategory.

The provisions of this subpart are applicable to discharges resulting from the process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, alumina, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is not contracted with water as an integral part of the process and water is not used in wet scrubbers to control kiln stack emissions.

### § 411.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

### § 411.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units, (kg/kkg of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

### § 411.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units (kg/kkg of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

### § 411.14 Reserved.

### § 411.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units (kg/kkg of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

### § 411.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the nonleaching subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

## Subpart B—Leaching Subcategory

### § 411.20 Applicability; description of the leaching subcategory.

The provisions of this subpart are applicable to discharges resulting from the

process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, aluminia, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is contacted with water as an integral part of the process or water is used in wet scrubbers to control kiln stack emissions.

§ 411.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 411.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units (kg/kkg of dust leached) |
| TSS | 0.4 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of dust leached) |
| TSS | 0.4 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

§ 411.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units (kg/kkg of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of product) |
| TSS | 0.005 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

§ 411.24 Reserved.

§ 411.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

| Effluent characteristic | Effluent limitations (maximum for any 1 day) |
|---|---|
| | Metric units (kg/kkg of dust leached) |
| TSS | 0.4 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |
| | English units (lb/1,000 lb of dust leached) |
| TSS | 0.4 |
| Temperature (heat) | Not to exceed 3° C rise above inlet temperature. |
| pH | Within the range 6.0 to 9.0. |

§ 411.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the leaching subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

## Subpart C—Materials Storage Piles Runoff Subcategory

§ 411.30 Applicability; description of the materials storage piles runoff subcategory.

The provisions of this subpart are applicable to discharges resulting from the runoff of rainfall which derives from the storage of materials, including raw materials, intermediate products, finished products and waste materials which are used in or derived from the manufacture of cement under either subcategory—A or subcategory—B.

§ 411.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "10 year, 24 hour rainfall event" shall mean a rainfall event with a probable recurrence interval of once in ten years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

§ 411.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual

discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for the facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of subparagraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

| *Effluent characteristic* | *Effluent limitations* |
|---|---|
| TSS | Not to exceed 50 mg.l. |
| pH | Within the range 6.0 to 9.0. |

(b) Any untreated overflow from facilities designed constructed and operated to treat the volume of runoff from materials storage piles which is associated with a 10 year, 24 hour rainfall event shall not be subject to the pH and TSS limitations stipulated in subparagraph (a), above.

**§ 411.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) Subject to the provisions of subparagraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

| *Effluent characteristic* | *Effluent limitations* |
|---|---|
| TSS | Not to exceed 50 mg.l. |
| pH | Within the range 6.0 to 9.0. |

(b) Any untreated overflow from facilities designed constructed and operated to treat the volume of runoff from materials storage piles which results from a 10 year, 24 hour rainfall event shall not be subject to the pH and TSS limitations stipulated in subparagraph (a), above.

**§ 411.34 Reserved.**

**§ 411.35 Standards of performance for new sources.**

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 411.36 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the materials storage piles runoff subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, § 128.133 of this title shall be amended to read as follows:

"In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 411.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

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## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 411 ]

### APPLICATION OF EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES TO PRETREATMENT STANDARDS FOR INCOMPATIBLE POLLUTANTS FOR THE CEMENT MANUFACTURING POINT SOURCE CATEGORY

#### Notice of Proposed Rulemaking

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92–500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 411—Cement Manufacturing Point Source Category, establishing for each subcategory therein the exent of applications of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the nonleaching, leaching, and materials storage piles runoff subcategories of the cement manufacturing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 411) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

"In addition to the prohibitions set forth in Section 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by the promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to Sections 301(b) and 304(b) of the Act; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further that when the effluent limitations guidelines for each industry are promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment."

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 411.15 and 411.25 of the proposed regulation for point sources within the nonleaching and leaching subcategories (September 7, 1973; 38 FR 24462), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 411.16, 411.26 and 411.36 which states the applicability of standards of performance for purposes of pretreatment standard for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document is now being published. The economic analysis report was made available at the time of proposal. Copies of the final Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia, 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of cement, the characteristics of these pollutants, and the degree of pollutant reduction attainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, solid waste disposal and land use, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of cement. The two reports exceed, in the aggregate, 100 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the cement point source category (38 FR 24462;

September 7, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 411) which currently is being published in the rules and regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction attainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal system by existing sources in the nonleaching, leaching and materials storage piles runoff subcategories the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Document the process waste waters from the nonleaching, leaching and materials storage piles runoff subcategories may contain suspended solids, pH and heat. Accordingly, it is the opinion of the EPA that because suspended solids and pH are recognized as compatible pollutants, the first option is appropriate and the guidelines should not apply to process waste waters from plants in the nonleaching, leaching and materials storage piles runoff subcategories discharging to publicly owned treatment works. Similarly, the thermal component of the effluent from either the nonleaching or leaching subcategories will be adequately diffused in a treatment works of suitable capacity and discharge of this pollutant without pretreatment should be allowed.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which is available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data is essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304, and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 411 be amended to add §§ 411.14, 411.24, and 411.34 as set forth below. All comments received on or before March 22, 1974 will be considered.

Dated: January 31, 1974.

JOHN QUARLES,
*Acting Administrator.*

Part 411 is proposed to be amended as follows:

* * * * *

Subpart A is amended by adding § 411.14 as follows:

**§ 411.14 Pretreatment Standards for Existing Sources.**

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 411.12 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

Subpart B is amended by adding § 411.24 as follows:

**§ 411.24 Pretreatment Standards for Existing Sources.**

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 123.133, the effluent limitations guidelines set forth in 40 CFR 411.22 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

Subpart C is amended by adding § 411.34 as follows:

**§ 411.34 Pretreatment Standards for Existing Sources.**

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 411.32 above shall not apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

* * * * *

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